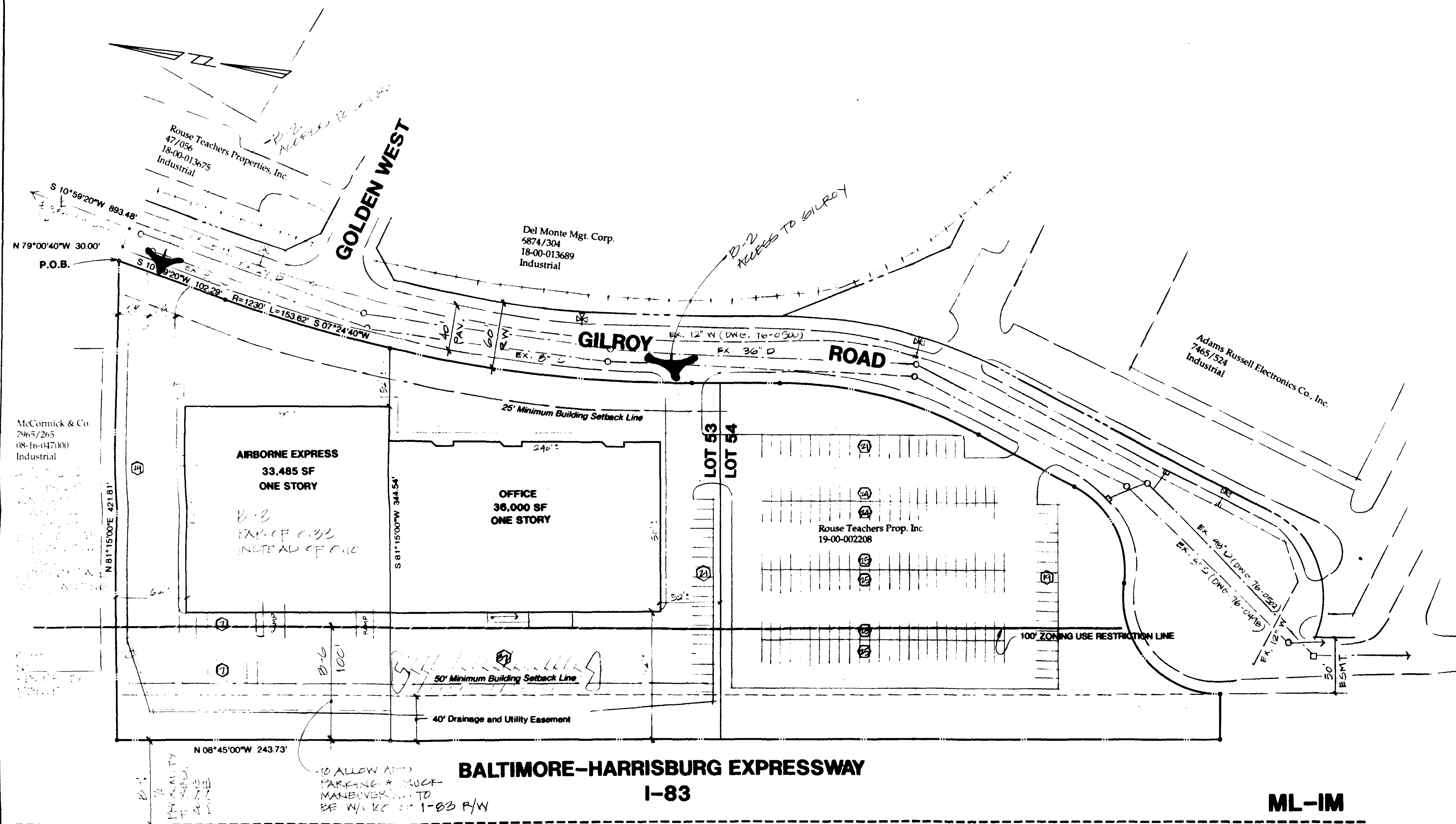


Vicinity Map  
Scale: 1" = 1000'



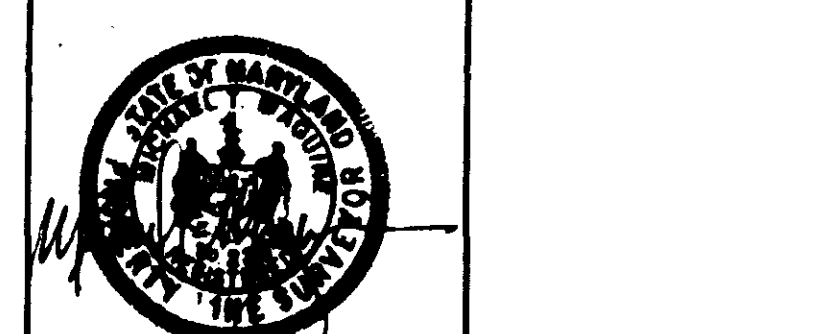
SEE NEW  
Zoning Relief Requested  
1. Special Exception to allow a service garage in an ML-IM zone.  
2. Special Hearing to allow a post office in an ML-IM zone.

Scale 1" = 50'

**DMW**  
Daft · McCune · Walker, Inc.  
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals  
200 East Pennsylvania Avenue  
Towson, Maryland 21286  
410.286.3333  
Fax 286.4705

**PLAN AND PLAT TO ACCOMPANY  
PETITIONS FOR SPECIAL EXCEPTION  
AND SPECIAL HEARING  
10720 GILROY ROAD  
HUNT VALLEY BUSINESS PARK  
BALTIMORE COUNTY, MD.**

Election Dist. 8 Councilmanic Dist. 8



DATE	BY	REVISIONS

Scale: 1" = 50'

Project No: 94031 Date: 4/12/94

Completed: dmh Drawn: Checked:

File: 94031 D.L.: <PLAT>

# GENERAL NOTES

Owner: 53 Gilroy Ltd. Partnership  
(Lot 53) c/o Rouse Office Management, Inc.  
11311 McCormick Rd.  
Hunt Valley, MD 21031

Deed Ref: 8057/361

Tax Acct: 19-00-002207

Applicant: Airborne Express  
3101 Western Ave.  
P.O. Box 662  
Seattle, WA 98111

## Site Acreage and Zoning (Lot 53)

Net = 4.30 Ac. ML-IM  
Gross = 4.33 Ac. ML-IM (Incl. 30' Gilroy Rd. R/W)  
Petition area = 2.13 Ac. X

## E.A.R. (2.0)

Allowed = 374,616 SF  
Proposed = 33,485 SF Prop. Industrial (Airborne Express)\*  
36,000 SF Ex. Office  
69,485 SF (0.38 FAR)

\*Uses include service garage, warehouse and office, pursuant to Baltimore County Zoning Regulations, and/or post office.

## Parking

Required = 63 employees @ 1 Sp./emp. = 63 Sp.  
36,000 SF Gen. Ofc. @ 3.3/1000 = 112 Sp.  
Total 182 Sp.

Proposed = 289 Spaces (Lots 53 and 54)

All standard spaces will be 8.5 x 18', paved with a durable, dustless surface and striped. All Airborne trucks will be parked indoors overnight. Parking to support both existing and proposed uses occurs on Lots 53 and 54.

PETITIONER'S  
EXHIBIT 1A





7. More than 100 feet separates the two access points from Gilroy Road into the site.
8. Paved areas have been improved to accommodate truck traffic.
9. The site is properly drained in connection with previous approvals and permits for now existing improvements.
10. Zoning Case 94-407 SPHX dealt with landscaping issues and required no additional landscaping treatment.
11. Restroom facilities are provided.

**Requested Zoning Relief (Draft)**  
10720 Gilroy Road  
Airborne Express

**Zoning Case 94-407-SPHX**

**A. Special Exception**

Special Exception for a Class I trucking facility as authorized by Section 253.2.A.6 BCZR.

**B. Variances**

1. Section 410.2 - to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83.
2. Section 410.2.A.1 - to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such.
3. Section 410.3.A.2 - to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1.
4. Section 410.3.B.5 - to permit provision of no security fence enclosing that part of the site devoted to trucking operations in lieu of the required 6 foot fence enclosure and to permit existing grade differentials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting.
5. Section 410.3.B.10 - to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those of the Landscape Manual.
6. Section 253.4 - to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way.

In addition, we may need:

7. Section 410.3.B.7 - to permit existing paving sections at the site to satisfy the requirements of Section 409.8D.

## Zoning Use Theory

Proposed Airborne Express Facility is a use in combination with other permitted uses in an ML/IM zone. The specific uses are:

### As of Right

Section 253.1 B The following transportation storage, quasi public uses or utilities

(15) Storage or wholesale distribution of any product whose sale or final processing or production is permitted as of right as a principal use in ML Zones.

1. Airborne's operation is to store, sort and distribute envelopes & packages to companies & individuals locally, nationally & internationally.
2. Operation is wholesale in the sense that it fits the

adjective definition in Webster's Ninth New Collegiate Dictionary

- a. - performed at a large scale
- b. - Airborne is a middleman who sells its services chiefly (but not exclusively) to retailers, other merchants, industrial, institutional and commercial users, mainly (but not exclusively) for business use
- c. - large scale & its distribution services and operation enables Airborne to use air rather than land transportation as a significant part of its express delivery of envelopes and packages.

3. The nature & the content of the envelopes and packages which Airborne distributes is such that they fall within the scope of the permitted as of right office or other uses set forth in Section 253.1 A, B, C, or E of the ML Zone.

4. The envelopes and parcels stored, sorted and distributed at 10720 Gilroy will be collected or delivered by vehicles similar to Ford Econoline vans

- a. These vans all have gross vehicle weights (Gross Vehicle Weight Ratings, GVWR) less than 10,000 pounds and by BCZR definition are not trucks. (See 101 Trucking Act)
- b. Envelope or parcel collection or delivery will be undertaken initially by about 25 vans and ultimately by as many as 50 vans - all under 10,000 pounds GVWR.
- c. Two straight trucks about 32 feet long will bring letters and parcels from the airport in the morning and return with letters and parcels to the airport in the evening for further distribution.
- d. These two trucks with a

maximum of four total trips a day to and from the airport serve the storage and sorting activities at 10720 Gilroy where the primary collection or delivery is performed by vans under 10,000 GVWR which are not by BCZR definition trucks.

e. The two trucks are simply an accessory to the principal or main use at 10720 Gilroy to be conducted by vehicles which are not trucks.

### By Special Exception

Section 253.2.B auxiliary service uses - serving that the requested use will serve primarily the industrial uses & related activities in the surrounding industrial area.

(3) Garages, service

Section 253.2.E Combination of uses permitted by Special Exception - service garage, and uses permitted as of right.

ZONING COMMISSIONER'S POLICY MANUAL

GENERAL

SECTION

101 POSTAL OR MAIL SERVICE OFFICE (PRIVATE): A retail operation for the collection or pick-up of letters or packages via a private carrier system. This definition does not include a distribution depot facility for the transport of letters or packages collected by such offices.

POST OFFICE: An office owned or leased by the U. S. Postal Service for the collection, distribution or pick-up of letters or packages via U. S. Mail. This definition includes the sale of stamps and other postal related items.

TO: PUTNEY PUBLISHING COMPANY  
April 26, 1994 Issue - Jeffersonian  
Please forward billing to:  
Airborne Express  
David C. Anderson, Corporate Secretary  
300 Western Avenue  
Seattle, Washington 98111  
410-812-2090

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-407-SPHX (Item 392)  
10720 Gilroy Road  
NW/8 Gilroy Road, 893.48' S of Beaver Dam Road  
8th Election District - 3rd Councilmanic  
Legal Owner(s): 53 Gilroy Limited Partnership  
Contract Purchaser(s): Airborne Express  
HEARING: THURSDAY, MAY 26, 1994 at 9:00 a.m. Rm. 118 Old Courthouse.

Special Hearing to approve a post office.  
Special Exception for a service garage.

ADMINISTRATIVE COMMENTS  
ADMINISTRATIVE COMMENTS FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) IF YOU HAVE INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

APRIL 21, 1994

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-407-SPHX (Item 392)  
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HEARING: THURSDAY, MAY 26, 1994 at 9:00 a.m. Rm. 118 Old Courthouse.

Special Hearing to approve a post office.  
Special Exception for a service garage.

*Carl Jablon*  
Arnold Jablon  
Director

cc: Airborne Express  
G. Scott Barhight, Esquire

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soy-based Ink  
on Recycled Paper

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

May 21, 1994

G. Scott Barhight, Esquire  
4th Floor  
210 West Pennsylvania Avenue  
Towson, Maryland 21204

RE: Case No. 94-407-SPHX, Item No. 392  
Petitioner: 53 Gilroy Limited Partnership  
Petition for Special Hearing and Special Exception

Dear Mr. Barhight:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on April 14, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

#### BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: May 2, 1994  
Zoning Administration and Development Management

FROM: Robert W. Bowling, Chief  
Developers Engineering Section

RE: Zoning Advisory Committee Meeting  
for May 2, 1994  
Item No. 392

The Developers Engineering Section has reviewed the subject zoning item. This site is subject to the development regulation for a commercial site in Baltimore County, Divisions 3, 4 and 5 of the Development Regulations and Department of Public Works Standard Plate R-32 for a single commercial entrance.

This proposal is subject to the Baltimore County Landscape Manual. A schematic landscape plan should be submitted and tentatively approved by this office prior to the hearing. The submitted parking lot layout must be revised to comply with Sec. IX C.2.b.1. requiring 7% landscape reservation area.

RWB:sw



O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

Ms. Charlotte Minton  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County  
Item No. 94-407-SPHX

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not offered by any State Highway Administration project.

Please contact Bob Small at 410-332-1250 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

*John Conover*

John Conover, Chief  
Engineering Access Permits  
Division

BS/

My telephone number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2253 (Statewide Toll Free)  
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

#### BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

DATE: May 5, 1994

SUBJECT: 10720 Gilroy Road

INFORMATION:

Item Number: 392 (94-407-SPHX)  
Petitioner: Gilroy Ltd. Partnership

Property Size: \_\_\_\_\_

Zoning: M.L.-I.M.

Requested Action: \_\_\_\_\_

Hearing Date: 1/1

SUMMARY OF RECOMMENDATIONS:

Based upon the information provided and analysis conducted, staff supports the applicant's request. The plat accompanying the subject request is in conformance with the Hunt Valley/Finsonium Redevelopment Study (adopted by Planning Board 4/15/93). In order to insure consistency with the plan, the following conditions must be met:

- The proposed use must not generate negative traffic impacts for other industrial uses.
- Landscape screening of parking and service areas from I-83 (50' minimum, including vegetation within I-83 R.O.W.) should be provided. The project should also be brought into conformance with the requirements of the Landscape Manual, in particular, the requirement for interior parking planting.
- Walks connecting the site and building entrance with adjoining properties and the future light rail stop must be provided.

Prepared by: *Jeffrey M. Long*

Division Chief: *Carol L. Kern*

PK/JUL:lw

ZAC.392/PZONE/ZAC1

Pg. 1

RE: PETITION FOR SPECIAL HEARING \*  
PETITION FOR SPECIAL EXCEPTION  
NW/8 Gilroy Road, 893.48' \*  
S of Beaver Dam Road \*  
(10720 Gilroy Road) \*  
8th Election Dist. \*  
3rd Councilmanic Dist. \*  
53 GILROY LTD. PARTNERSHIP \*  
Petitioners \*

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 94-407-SPHX

#### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

*Peter Max Zimmerman*  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carol S. Demilio*  
CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, 210 W. Pennsylvania Avenue, 4th Floor, Towson, MD 21204, attorney for Petitioners.

*Peter Max Zimmerman*  
PETER MAX ZIMMERMAN

#### EXHIBIT A

#### Zoning Plan Notes

- Site Acreage and Zoning
  - Net Site Area - ML-IM 2.13 acres
  - Gross Site Area 2.31 acres (30 ft. of Gilroy, 7,677 SF)
- Floor Area Ratio (FAR)
  - Existing Building Area 35,485 SF
  - Gross Site Area 100,459 SF
  - Attained FAR 0.33
  - Maximum Permitted FAR 0.1
- Parking Class I Trucking Facility
  - Maximum employees 63 Employees
  - Required Parking, 5 Plus 1 per 2 Employees 37 Spaces
  - Parking Provided On-Site 43 Spaces

All Airborne vehicles will be parked indoors overnight. All standard parking spaces will be 8.5 x 18 feet and shall be striped. All parking, loading, or maneuvering spaces are, or shall be paved in accordance with the provisions of 409.8D.

All paved areas are curbed to protect passenger automobile and maneuvering aisles are more than 25 feet from a residential zone.

- Site lighting is, or shall be, arranged so as to not shine into residential areas, or upon public streets.
- The site is presently improved with building and paved areas as are shown. There will be no external site or building alterations other than creating ramps in lieu of existing loading docks or a new doorway to provide for vehicular ingress and egress within the existing building. Accordingly, topography, grading, or drainage is not shown.
- There are no wetlands within 200 feet, or any existing dwellings within 300 feet.



Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning  
Suite 113, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-4386  
June 29, 1994

G. Scott Barhight, Esquire  
210 W. Pennsylvania Avenue, 4th Floor  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
NW/S Gilroy Road, 891.48' S of Beaver Dam Road  
(10720 Gilroy Road)  
8th Election District - 3rd Councilmanic District  
54 Gilroy Limited Partnership - Petitioners  
Case No. 94-407-SPHX

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied and the Petition for Special Exception has been granted in accordance with the attached order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 887-4386.

Very truly yours,

*Lawrence E. Schmidt*  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

cc: Mr. George E. Gavrilin  
1401 Boone-Walker, Inc., 200 E. Pennsylvania Ave., Towson, Md. 21286

Mr. James Smith, District Service Manager  
Airborne Express, 1015 W. Nursery Road, Linthicum, Md. 21090

cc: Mr. James Smith

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 8th Date of Posting: 7/7/94  
Posted for: Special Hearing & Special Exception  
Petitioner: 54 Gilroy Ltd. Partnership  
Location of property: 10720 Gilroy Rd., 8th Election District  
Location of Sign: 10720 Gilroy Rd., 8th Election District  
Remarks: None  
Posted by: APR 29 1994 Date of return: 7/12/94  
Number of Signs: 2

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., April 29, 1994

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on April 28, 1994.

THE JEFFERSONIAN,

*A. Henrichson*  
TOWSON, MD.

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on the date and time specified below.

Case Number: 94-407-SPHX (Item 392)  
10720 Gilroy Road  
8th Election District  
S of Beaver Dam Road  
3rd Councilmanic District  
54 Gilroy Limited Partnership  
Contract Purchase: Airborne Express  
HEARING: THURSDAY, MAY 26, 1994 at 2:00 p.m. in Rm. 118, Old Courthouse, Towson, Maryland 21204 and before:

Special Hearing: to approve a post office use in a service garage.

LAWRENCE E. SCHMIDT, Zoning Commissioner for Baltimore County

NOTES: (1) Hearing on the proposed advertisement, for special consideration, File No. 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3353.

4210 April 28

**Petition for Special Hearing**  
to the Zoning Commissioner of Baltimore County

for the property located at 10720 Gilroy Road  
which is presently zoned ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a post office use in an ML-IM zone

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

By: David C. Anderson, Corporate Secretary/Counsel  
3101 Western Ave  
Seattle, Washington 98111  
By: Joseph H. Necker, Jr., Vice President  
3101 Western Ave  
Seattle, Washington 98111

Attorney for Petitioner: G. Scott Barhight  
4th Floor  
210 W. Pennsylvania Ave  
Towson, MD 21204  
Attorney for Petitioner: G. Scott Barhight  
4th Floor  
210 W. Pennsylvania Ave  
Towson, MD 21204

ORDER RECEIVED FOR FILING  
Date: 7/7/94  
By: APR 29 1994

**Petition for Special Exception**  
to the Zoning Commissioner of Baltimore County

for the property located at 10720 Gilroy Road  
which is presently zoned ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a service garage

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

By: David C. Anderson, Corporate Secretary/Counsel  
3101 Western Ave  
Seattle, Washington 98111  
By: Joseph H. Necker, Jr., Vice President  
3101 Western Ave  
Seattle, Washington 98111

Attorney for Petitioner: G. Scott Barhight  
4th Floor  
210 W. Pennsylvania Ave  
Towson, MD 21204  
Attorney for Petitioner: G. Scott Barhight  
4th Floor  
210 W. Pennsylvania Ave  
Towson, MD 21204

ORDER RECEIVED FOR FILING  
Date: 7/7/94  
By: APR 29 1994

Baltimore County Government  
Office of Zoning Administration and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204  
(410) 887-3353

**ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES**

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

*Arnold Jablon*  
ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 392

Petitioner: 54 Gilroy Ltd. Partnership By: Rouse Teachers Prop. Inc., General Partner

Location: 10720 Gilroy Rd.

PLEASE FORWARD ADVERTISING BILL TO:

AIRBORNE EXPRESS

NAME: DAVID C. ANDERSON, CORPORATE SECRETARY / COUNSEL

ADDRESS: 3101 WESTERN AVE

SEATTLE WASH. 98111

\* PHONE NUMBER: 206-250-1515

SCOTT BARHIGHT, LOCAL ATTNY REPRESENTING PETITIONER

\*MUST BE SUPPLIED

Description  
To Accompany Petitions for Special Exception  
and Special Hearing  
213 Acre Parcel  
Northwest Side of Gilroy Road  
South of Beaver Dam Road  
Eighth Election District, Baltimore County, Maryland

**DMW**

Dan M. Walker, Inc.

300 East Pennsylvania Avenue

Towson, Maryland 21204

410-286-1444

Fax: 410-286-1445

A form of Land Planning

Land-use, Technical

Engineering, Surveying, etc.

Environmental Planning

Urban Planning

Transportation Planning

Water Resources Planning

Wildlife Management

Yard and Site Planning

Zoning Administration

Zoning Enforcement

Zoning Map

Zoning Ordinance

Zoning Regulations

Zoning Study

Zoning Update

Zoning Variance

Zoning Waiver

Zoning Withdrawal

Zoning Withdrawal

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IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION - NW/8 Gilroy Road, 893.48' S of Beaver Dam Road (10720 Gilroy Road) 8th Election District 3rd Councilmanic District

\* BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

\* Case No. 94-407-SPHX

53 Gilroy Limited Partnership Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as Petitions for Special Hearing and Special Exception for that property known as 10720 Gilroy Road, located in the Hunt Valley Industrial Park in northern Baltimore County. The Petitions were filed by the owners of the property, 53 Gilroy Limited Partnership, by Rouse Teachers Property Inc., General Partner, through Joseph H. Necker, Jr., Vice President, and the Contract Lessee, Airborne Express by David C. Anderson, Corporate Secretary/Counsel. The Petitioners seek a special hearing to approve a post office use in an M.L.-I.M. zone and a special exception for a service garage for the vehicles used in the post office operation. The subject property and relief sought are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 2.

Appearing on behalf of the Petitions were Daniel Zeltt, District Service Manager for Airborne Express, George E. Gavrelis, Professional Engineer with Daft-McCune-Walker, Inc., Bob Arnold, and G. Scott Barhight, Esquire, attorney for the Petitioners. Also appearing in support of the Petitions was Peter Swanson with the Baltimore County Department of Economic Development. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 4.30 acres, more or less, zoned M.L.-I.M. and is improved with

a one-story building of approximately 70,000 sq.ft. and a large parking area which surrounds the building. The property is located within the Hunt Valley Industrial Park adjacent to Gilroy Road and abuts the right-of-way for the Baltimore-Harrisburg Expressway (I-83). The proposed special exception/special hearing uses are intended for a portion of the site. Specifically, the Petitioners seek to lease 33,485 sq.ft. of the existing building to Airborne Express for purposes of establishing a district office. The area designated for this special exception/special hearing use is approximately 2.13 acres in size. Mr. Daniel Zeltt testified and presented the site plan. He described the business of Airborne Express, which is well-known to this Zoning Commissioner and the public. The company is in the business of delivering packages and letters on a high speed, high volume basis. Mr. Zeltt noted that 75% of the company's business involves letters and 75% of all deliveries made involve the company's fleet of aircraft.

As to the subject site, no external improvements to the building are envisioned except for some modifications to increase vehicular access. Letters and packages will be delivered to the site by two 26-foot long trucks which transport material to be delivered from the Baltimore Washington International Airport. A second delivery by way of a 45-foot trailer will also make deliveries to the site each afternoon from the Airborne Express hub in Allentown, Pennsylvania. Other than these deliveries by large trucks, the remaining traffic and deliveries will be generated and accomplished by Econoline vans. It is envisioned that approximately 25 vans will be utilized on the site when the business is begun with the potential expansion to a total of 50 vans. It is of significant note that the vans have a gross vehicle weight of 9400 lbs.

- 2 -

Mr. Zeltt also comprehensively discussed the nature of the business. He described the distribution and sorting system employed on site for the distribution of the material to be delivered. He also described the hours of operation as being from approximately 6:30 AM to 10:00 PM. Mr. Zeltt noted that the Airborne Express clientele was largely businesses and commercial clients.

Mr. Gavrelis also testified extensively about the nature of this proposed use as it relates to the B.C.Z.R. As noted above, the Petitioner has filed for relief under alternative theories. First, approval under the Petition for Special Hearing is requested for a post office use in that the nature of the business of Airborne Express is somewhat similar to the United States Postal Service. Second, because the vehicles used in the operation will be maintained and stored on the premises, special exception relief is requested for a service garage. Mr. Gavrelis and Mr. Barhight presented testimony and argument relating to the propriety of such uses on this site.

It should first be observed that the proposed use will not cause any detriment to the surrounding locale and is an entirely appropriate and compatible use for this vicinity. As previously noted, the site is located immediately adjacent to I-83 within the Hunt Valley Industrial Park, which is a large tract of industrial uses. The McCormick Company, a major client of Airborne Express, is located nearby. I find no evidence that the proposed use will be detrimental in any fashion to this vicinity. In fact, it will perform a valuable service to the businesses located nearby.

As to the identification of this use, however, I do not find same to be a post office. A post office is not a defined use in Section 101 of the B.C.Z.R. In fact, that term only appears in the B.C.Z.R. in Section

- 3 -

101 where the term "office" is defined. Therein, it is provided that an office does not include a post office use. However, in Webster's Third New International Dictionary, the term post office is defined as a building in which regulating and handling the transmission of mail occurs. In applying this definition to the proposed use, I do not find same to be a post office.

In view of this Zoning Commissioner's experience in evaluating the United Postal Service (UPS) facility in Loveton, consideration should be given as to whether the proposed use might be considered a trucking facility. Although the business of UPS and Airborne Express is not identical, the concepts are somewhat similar. Both involve high speed delivery of written material and packaged items. However, an examination of the definition for a trucking facility in Section 101 of the B.C.Z.R. shows that same is not applicable to the proposed Airborne Express operation. Specifically, the definition provides "as used in this definition, the terms trucks, truck-trailers, and truck-tractors do not include any vehicle whose maximum gross weight is 10,000 lbs. or less as rated by the State Motor Vehicle Administration." Since the predominant vehicles to be employed by Airborne Express are under 10,000 lbs., unlike UPS, the trucking facility definition does not apply.

The service garage definition does appear to fit; however, that use is defined as "a garage where motor vehicles are stored, equipped for operation, repaired, or kept for remuneration, hire or sale." Clearly, the Airborne Express fleet of vehicles are stored, equipped, and repaired on the site. Moreover, the use of the word "or" in the definition shows that the terms thereof are disjunctive. Not all of the activities identified in the service garage definition must exist on the site for the use to be

- 4 -

considered a service garage. Therefore, I believe that the subject site is considered a service garage.

I would also adopt the zoning use theory offered by Mr. Gavrelis. He referenced Section 253.1.B of the B.C.Z.R. which allows as a matter of right certain transportation, storage, quasi-public uses, or utilities in an M.L. zone. Item 15 therein includes the storage or wholesale distribution of any products whose sale or final processing or production is permitted as of right as a principal use in an M.L. zone. Airborne's operation seems to comply with this definition. The nature and content of the material which Airborne distributes would fall under a number of the uses itemized within that Section of the B.C.Z.R. Clearly, Airborne is a middleman who conveys products, the manufacture of which is otherwise permitted in this zone. Moreover, Section 253.2.B permits certain auxiliary service uses by special exception, when those uses will serve industrial and related activities in a surrounding industrial area. Airborne's proposed use may well fall within this description, in that a number of Airborne's customers are located in the industrial park and vicinity. Lastly, Section 253.2.E of the B.C.Z.R. allows combinations of uses permitted either by special exception or as a matter of right.

In any event, no matter what the use is labeled, it is clear that same is entirely appropriate in this locale and will not create any adverse effect upon the surrounding community. Moreover, the nature of the use is consistent with the M.L.-I.M. zoning classification and other uses which are permitted therein by special exception or by right. Therefore, I will approve the use as requested.

In response to the Zoning Plans Advisory Committee comments submitted by the Office of Planning and Zoning, I do not find that the pro-

posed use would generate negative traffic impacts in this area which is located adjacent to an Interstate. It appears that the capability of the surrounding roadway is appropriate. I further decline to incorporate the landscaping requirement. Photographs submitted into evidence as Petitioner's Exhibits 4 show that the subject site is developed with mature plantings and trees as the building has been there for some time. The site is well-screened from I-83 and the surrounding uses are all industrial in nature. There are no nearby residences which could be affected by the use proposed. Therefore, I do not believe additional landscaping above and beyond what already exists on the property should be required. For the same reasons, sidewalks will not be required. There will not be clients visiting the site on any regular basis and the surrounding properties are entirely located within an industrial park. There does not appear to be a volume of pedestrian traffic to warrant such a requirement.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes

- 6 -

of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing and special exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of June, 1994 that the Petition for Special Hearing to approve a post office use in an M.L.-I.M. zone, in accordance with Petitioner's Exhibit 2, be and is hereby DENIED, in that the proposed use is not a post office; and,

IT IS FURTHER ORDERED that the Petition for Special Exception for a service garage for the vehicles used in the proposed operation by Airborne Express, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the proposed Airborne Express operation should be permitted as a matter of right, pursuant to Section 253.1.B of the B.C.Z.R., or in the alternative, by special exception, pursuant to

- 7 -

Sections 253.2.B and 253.2.E of the B.C.Z.R., subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

LES:bjs

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

- 8 -



IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

STAY ORDER

Upon the Motion for Reconsideration and Stay filed by the Petitioner, Airborne Express, the Order of the Zoning Commissioner dated June 24, 1994 in this matter is hereby stayed until such time as the Motion for Reconsideration and Stay has been ruled upon by the Zoning Commissioner.

THEREFORE, it is ORDERED by the Zoning Commissioner of Baltimore County this 21st day of July, 1994 that the Order of the Zoning Commissioner in this case dated June 24, 1994 is hereby stayed until such time as the Motion for Reconsideration is ruled upon by the Zoning Commissioner of Baltimore County.

LAWRENCE E. SCHMIDT,  
Zoning Commissioner for  
Baltimore County

IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

AMENDED ORDER

This matter came before the Zoning Commissioner as Petitions for Special Hearing and Special Exception for the subject property, known as 10720 Gilroy Road, located in the Hunt Valley Industrial Park in northern Baltimore County. The Petitions were filed by the owners of the property, 53 Gilroy Limited Partnership, by Rouse Touchers Property Inc., General Partner, through Joseph H. Necker, Jr., Vice President, and the C tract Lessee, Airborne Express by David C. Anderson, Corporate Secretary/Counsel. The Petitioners originally sought a special hearing to approve a post office use in an M.L.-I.M. zone and a special exception for a service garage for the vehicles used in the post office operation.

This matter was scheduled and a public hearing held on May 26, 1994. At that hearing, numerous representatives of the property owner and lessee appeared and testified and were represented by G. Scott Barhight, Esquire. Following that public hearing, I issued a Findings of Fact and Conclusions of Law on June 24, 1994. Therein, I denied the Petition for Special Hearing for a post office in an M.L.-I.M. zone, determining that the proposed use did not constitute a post office. Rather, I granted the Petition for Special Exception for a service garage for vehicles used in the proposed operation by Airborne Express. Moreover, I found and ordered that the proposed Airborne Express operation was permitted as of right,

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By [Signature]

pursuant to Section 253.1.B of the B.C.Z.R., or in the alternative, by special exception, pursuant to Sections 253.2B and 253.2E of the B.C.Z.R.

Following the issuance of my opinion and Order, notification was received that the Office of People's Counsel had reviewed that decision. It is to be noted that they did not participate at the subject hearing. Moreover, the Office of People's Counsel communicated to the Petitioner a concern over the terms and provisions of the Findings of Fact and Order. It was represented to this Zoning Commissioner that People's Counsel did not so much object to the proposed use at this locale, but feared that a certain precedent would be established and prejudice to other cases might result if the Order was allowed to stay.

Under the circumstances, the Petitioners filed a Motion for Reconsideration of my decision and a Stay of the terms and conditions of my Order by Motion dated July 20, 1994. In addition, the Petitioners requested an amendment to the previous Petitions filed to include a Petition for Special Exception for a trucking facility, pursuant to Section 253.2.A.6 of the B.C.Z.R., and a Petition for Variance seeking relief from Section 410 of the B.C.Z.R. as follows: 1) From Section 410.2 to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83; 2) from Section 410.2.A.1 to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such; 3) from Section 410.3.A.2 to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1; 4) from Section 410.3.B.5 to permit the provision of no security fence enclosing part of the site devoted to trucking operations in lieu of the required 6-foot

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By [Signature]

fence enclosure and to permit existing grade differentials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting; 5) from Section 410.3.B.10 to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those required in the Landscape Manual; 6) from Section 253.4 to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way; and 7) from Section 410.3.B.7 to permit existing paving sections at the site to satisfy the requirements of Section 409.8.D of the B.C.Z.R. An Order of Stay was issued by this Office on July 21, 1994, within the 30-day period allowed by law. Thereafter, a public hearing was reconvened to consider arguments of counsel and additional testimony by Mr. George Gavrelis. The Petitioners were again represented by G. Scott Barhight, Esquire, and the Office of People's Counsel was present in the person of Peter Max Zimmerman. A revised site plan was submitted and introduced as Petitioner's Exhibit 1A. Moreover, as noted above, Mr. Gavrelis testified and explained the changes on the plan and amended Petitions. It is to be noted that none of the changes involve any physical alteration of the building. Rather, People's Counsel and the Petitioners have requested this Commissioner rescind the Order so as to treat the proposed use as a trucking facility.

Trucking facilities are defined by Section 101 of the B.C.Z.R. as "a structure or land used, or intended to be used, primarily, a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or b) for truck

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By [Signature]

or truck trailer parking storage." On its face, it appears that Airborne's use, as reflected in the testimony and evidence offered at the hearing, would fall within this definition. However, as this Zoning Commissioner noted on the record, the definition of a trucking facility in Section 101 goes on to exclude as a "truck" any vehicle whose maximum gross weight is 10,000 lbs. or less. As the testimony presented established, the vast majority of the vehicles employed by Airborne Express are under the 10,000 lbs. limit. Thus, whether this use "primarily" involves such vehicles is questionable. Nonetheless, since the parties are in agreement, I will accept their joint proffer that the proposed use is indeed a trucking facility.

As noted in my original opinion, the proposed use will clearly not be detrimental to the health, safety or general welfare of the surrounding locale. No matter what this use is labeled, the daily routine and activity on site is entirely proper and compatible with surrounding uses. In fact, one cannot envision any site which would be more appropriate for the Airborne Express operation. Thus, the special exception relief should be granted to permit the proposed trucking facility on this site. Moreover, because the trucking facility use has been adopted, certain variances are necessary from Section 410 of the B.C.Z.R. These variances are listed and fully identified in the Motion for Reconsideration and Stay which will be specifically referenced and adopted herein. Moreover, they were discussed in detail and identified on the amended site plan marked as Petitioner's Exhibit 1A.

Suffice it to say, I am persuaded that the variances should be granted, based upon the uncontradicted testimony offered by Mr. Gavrelis. It is clear that the relief granted will be within the spirit and intent of

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Date 8/1/94  
By [Signature]

the B.C.Z.R. Moreover, the granting of the variances will not be detrimental to the surrounding locale and I find that the Petitioner would suffer practical difficulty if the relief were not granted. It is to be particularly noted that the Petitioner intends on utilizing an existing building and will not physically alter the exterior of same, but for certain improvements to provide better access. However, the building envelope and size will remain the same. Thus, it is clear that a granting of the variances will be to legitimize the existing structure and assure compliance of same for use as a trucking facility.

NOW, THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 10th day of August, 1994, that the Order issued on June 29, 1994 be and the same is hereby AMENDED as follows:

That the Petition for Special Exception for a Class I Trucking Facility, pursuant to Section 253.2.A.6 of the B.C.Z.R. and in accordance with Petitioner's Exhibit 1A, be and is hereby GRANTED, and;

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 410 of the B.C.Z.R. as follows: 1) From Section 410.2 to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83; 2) from Section 410.2.A.1 to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such; 3) from Section 410.3.A.2 to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1; 4) from Section 410.3.B.5 to permit the provision of no security fence enclosing that part of the site devoted to trucking operations in lieu of the required 6-foot fence enclosure and to permit existing grade differen-

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Date 8/1/94  
By [Signature]

tials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting; 5) from Section 410.3.B.10 to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those required in the Landscape Manual; 6) from Section 253.4 to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way; and 7) from Section 410.3.B.7 to permit existing paving sections at the site to satisfy the requirements of Section 409.8.D of the B.C.Z.R., in accordance with Petitioner's Exhibit 1A, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Order of Stay dated July 21, 1994 be and is hereby RESCINDED and of no further force and effect.

LES:bjs

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

ORDER RECEIVED FOR FILING  
Date 8/1/94  
By [Signature]

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

August 10, 1994

(410) 887-4386

G. Scott Barhight, Esquire  
210 W. Pennsylvania Avenue, 4th Floor  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
NW/S Gilroy Road, 893.48' S of Beaver Dam Road  
(10720 Gilroy Road)  
8th Election District - 3rd Councilmanic District  
53 Gilroy Limited Partnership - Petitioners  
Case No. 94-407-SPHX

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Motion for Reconsideration has been granted, and the Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: Mr. George E. Gavrelis  
Daft-McCune-Walker, Inc., 200 E. Pennsylvania Ave., Towson, Md. 21286

Mr. Daniel Zellit, District Service Manager  
Airborne Express, 1015 W. Nursery Road, Linthicum, Md. 21090

People's Counsel

File ✓





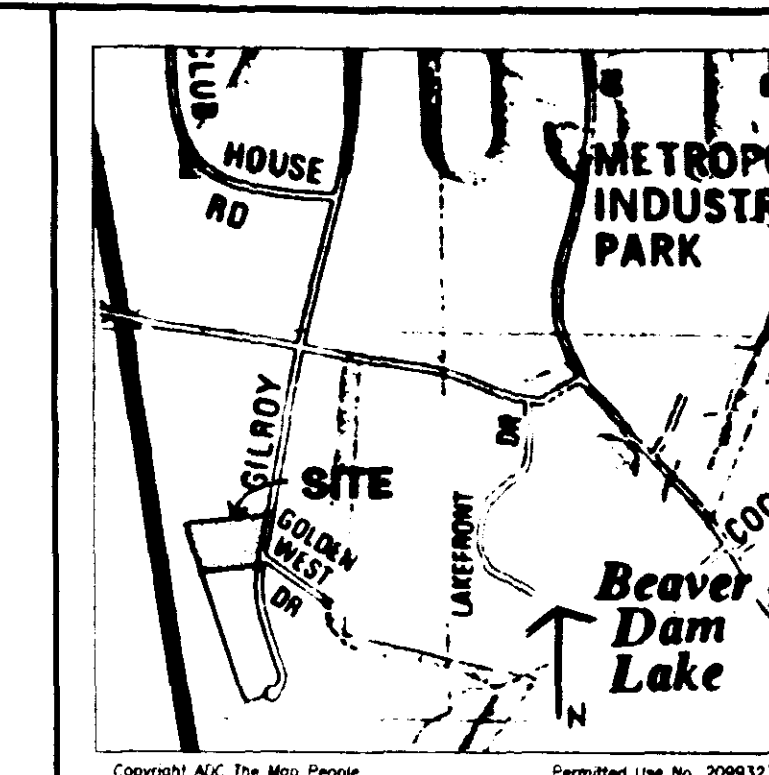
BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.  
MARTINSBURG, W.V. 25401

*Plot No 3*

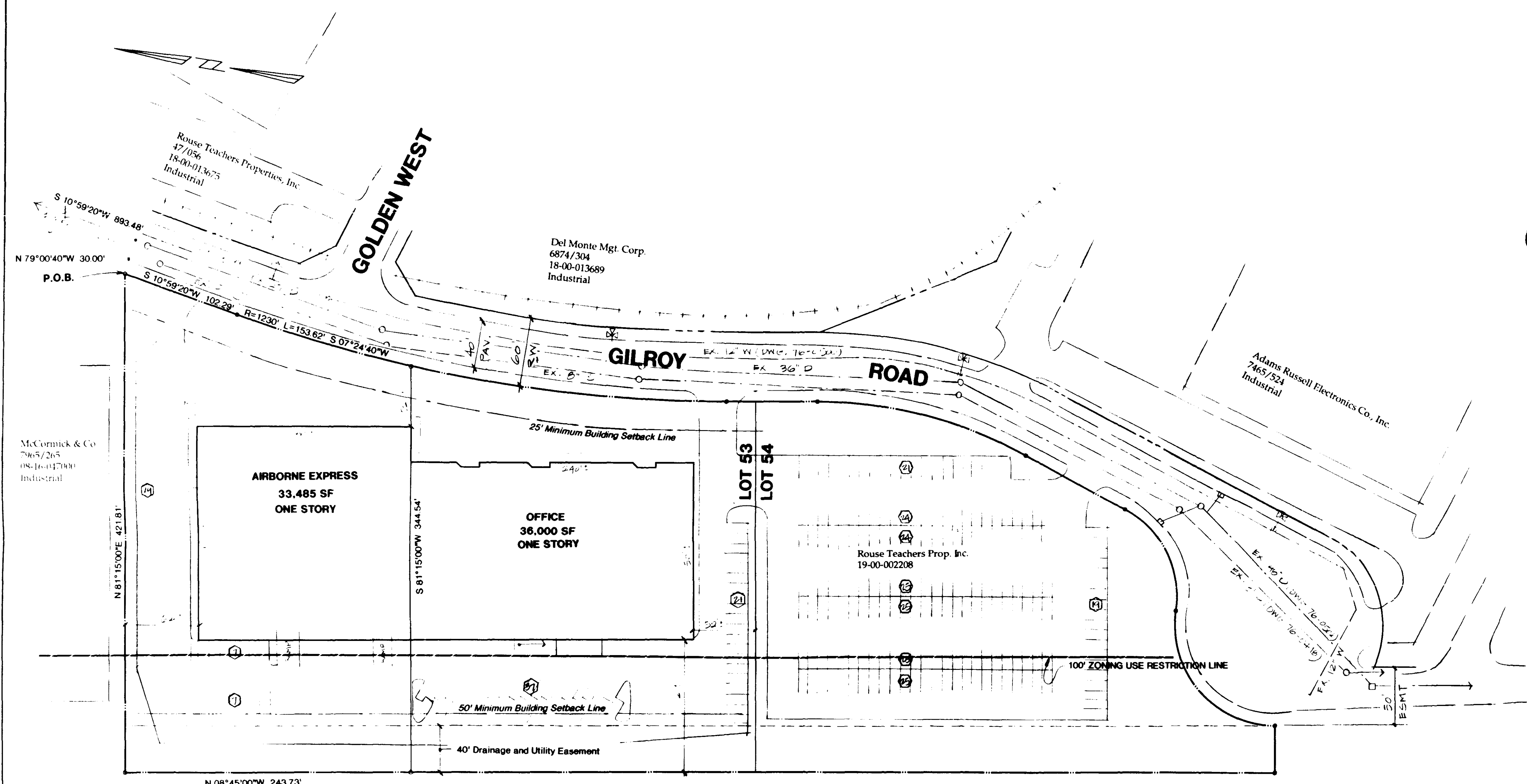
SCALE	LOCATION	SHEET
1" = 200' ±	COCKEYSVILLE	N.W. 17-C
DATE OF PHOTOGRAPHY JANUARY 1986		MICROFILMS





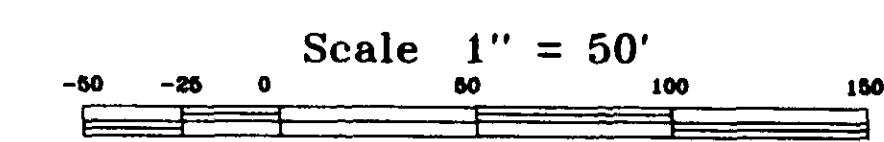
Vicinity Map  
Scale: 1" = 1000'

94-407-SPHX



**Zoning Relief Requested**

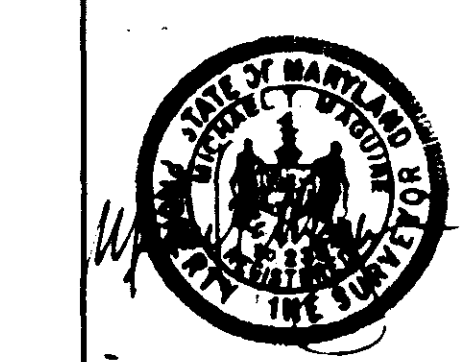
1. Special Exception to allow a service garage in an ML-IM zone.
2. Special Hearing to allow a post office in an ML-IM zone.



**DMW**  
Daft · McCune · Walker, Inc.  
A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals  
200 East Pennsylvania Avenue  
Towson, Maryland 21206  
410-286-3333  
Fax: 286-4705

**PLAN AND PLAT TO ACCOMPANY  
PETITIONS FOR SPECIAL EXCEPTION  
AND SPECIAL HEARING  
10720 GILROY ROAD  
HUNT VALLEY BUSINESS PARK  
BALTIMORE COUNTY, MD.**

Election Dist. 8 Councilmanic Dist. 3



**PRINTED**  
**APR 13 1994**  
DAFT-MCCUNE-WALKER, INC.

DATE	BY	REVISIONS

392  
PETITIONER'S  
EXHIBIT No 2

Scale: 1" = 50'  
Project No: 94031  
Date: 4/12/94

Computed: cmh Drawn: Checked:

**GENERAL NOTES**

**Owner:** 53 Gilroy Ltd. Ptnrshp  
c/o Rouse Office Management, Inc.  
11311 McCormick Rd.  
Hunt Valley, MD 21031

**Deed Ref:** 8057/361

**Tax Acct:** 19-00-002207

**Applicant:** Airborne Express  
3101 Western Ave  
P.O. Box 662  
Seattle, WA 98111

**Site Acreage and Zoning (Lot 53)**

Net = 4.30 Ac. ML-IM  
Gross = 4.33 Ac. ML-IM (Incl. 30' Gilroy Rd. R/W)  
Petition area = 2.13 Ac. +/-

**E.A.R. (2.0)**

Allowed = 374,616 SF  
Proposed = 33,485 SF Prop. Industrial (Airborne Express)\*  
36,000 SF Ex. Office  
69,485 SF (0.38 FAR)

\*Uses include service garage, warehouse and office, pursuant to  
Baltimore County Zoning Regulations, and/or post office.

**Parking**

Required = 63 employees @ 1 Sp./emp. = 63 Sp.  
36,000 SF Gen. Ofc. @ 3.3/1000 = 112 Sp.  
Total 182 Sp.

Proposed = 289 Spaces (Lots 53 and 54)

All standard spaces will be 8.5 x 18', paved with a durable, dustless surface and  
striped. All Airborne trucks will be parked indoors overnight. Parking to  
support both existing and proposed uses occurs on Lots 53 and 54.

IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

MOTION FOR RECONSIDERATION AND STAY

Airborne Express, Petitioner, by G. Scott Barhight and Whiteford, Taylor & Preston, its attorneys, hereby moves for reconsideration and stay of the Zoning Commissioner's Order in the above-captioned matter dated June 24, 1994 and states as follows:

1. By Findings of Fact and Conclusions of Law dated June 24, 1994, the Zoning Commissioner for Baltimore County, upon the Petitions of Airborne Express held as follows:

a. The Petition for Special Hearing to approve a post office use in an M.L.-I.M. zone was denied,

b. The Petition for Special Exception for a service garage for the vehicles used in the proposed operation by Airborne Express was granted, and,

c. It was further ordered that the proposed Airborne Express operations should be permitted as a matter of right pursuant to Section 253.1.B of the Baltimore County Zoning Regulations, or in the alternative, by Special Exception pursuant to Sections 253.2.B and 253.2.E of the Baltimore County Zoning Regulations.

2. Since the date of the Order, the Office of People's Counsel, whose appearance was entered before the Zoning Commissioner previously, indicated their concern regarding the status of the proposed use as a trucking facility.

3. In response to the concerns expressed by People's Counsel and in an effort to facilitate the expeditious disposition of this case, Airborne Express files this Motion for Reconsideration.

4. In order to avoid the prejudicial effects of the appeal deadline, Airborne Express respectfully requests that the Zoning Commissioner stay its Order dated June 24, 1994 until such time that the Motion for Reconsideration has been decided.

5. Airborne Express hereby respectfully requests that the Petitions previously filed be amended to include a Petition for Special Exception for a trucking facility pursuant to Section 410, BCZR and to add a Petition for Zoning Variance to provide for the zoning variances as identified on the attached revised site plan labeled Exhibit A.

6. Based upon the evidence previously submitted at the public hearing held on this matter, Airborne Express respectfully asserts that the applicable provisions of the Baltimore County Zoning Regulations regarding special exceptions for trucking facilities and variances have already been proven through the testimony of Messrs. Zeltt and Gavrelis. There were no protestants present at the public hearing and the only party to enter their appearance was People's Counsel.

- 2 -

7. Airborne Express respectfully requests that the Petition for Special Exception for trucking facility and Petition for Zoning Variances be granted.

THEREFORE, Airborne Express, Petitioner, respectfully requests that the relief requested in this Motion be granted.

Respectfully submitted,

G. Scott Barhight  
Whiteford, Taylor & Preston  
400 Court Towers  
210 W. Pennsylvania Ave  
Towson, Maryland 21204  
(410) 832-2050

Certificate of Mailing

I hereby certify that on this 20<sup>TH</sup> day of July, 1994, I mailed, postage prepaid, a copy of the foregoing Motion for Reconsideration and Stay to Peter Zimmerman, Esquire, People's Counsel, Room 47, Old Court House, 400 Washington Avenue, Towson, Maryland 21204.

G. Scott Barhight

- 3 -

IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

AMENDED ORDER

Upon the Motion for Reconsideration and Stay filed by the Petitioner, Airborne Express, there having been no protestants at the hearing, and, recognizing the People's Counsel's observation that the proposed facility meets the definition of a trucking facility, this Commissioner has further reviewed the petition, as amended.

The proposed Airborne Express use is to distribute and sort parcels and other material. This involves the transfer of goods from trucks or truck trailers to other vehicles. It also involves truck parking.

It appears that the proposed trucking facility use meets the criteria of BCZR Sec. 502.1, because it is an appropriate location and will not adversely affect the public safety, health and welfare. It further appears that there are practical difficulties unique to this location which justify the requested variances under BCZR 307.1. In particular, the adjacent R.C.4 zone is in the middle of an interstate highway, I-83, and there is no impact on any residential neighborhood.

A series of variances have been requested in conjunction with the Special Exception for a Class I trucking facility as authorized by Section 253.2.A.6, BCZR, in accordance with Petitioner's Exhibit 2. Area variances may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty to an area variance, the Petitioner must meet the following:

1. Whether strict compliance with requirements would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2. Whether the grant would do substantial injustice to applicant as well as other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief; and

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and the public safety and welfare secured. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974). In the instant case, no significant alterations are proposed for the building or the site layout. The variances are required merely because of the Trucking Facility Requirements of the Baltimore County Zoning Regulations. The impacts of the proposed use by Airborne Express are no greater as a "Trucking Facility" than as the use is described in my previous order dated June 24, 1994. It would be

- 2 -

a practical difficulty to require this Petitioner to alter the existing improvements when all of the activities, including truck and van parking, will occur substantially within the building.

It is clear from the testimony that if the variances are granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public health, safety, and general welfare. Pursuant to the advertisement, posting of the property, and upon the Motion for Reconsideration, and for the reasons given above, the special exception and variances requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this \_\_\_\_\_ day of July, 1994, superseding the prior Order dated July 24, 1994, that the Petition for Special Exception for a Class I trucking facility as authorized by Section 253.2.A.6, BCZR, in accordance with Petitioner's Exhibit 2 be and is hereby granted; and

IT IS FURTHER ORDERED that the Petition for Variance in accordance with Petitioner's Exhibit A be and is hereby granted as follows:

1. From Section 410.2 - to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83.

2. From Section 410.2.A.1 - to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such.

- 3 -

3. From Section 410.3.A.2 - to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1.

4. From Section 410.3.B.5 - to permit provision of no security fence enclosing that part of the site devoted to trucking operations in lieu of the required 6 foot fence enclosure and to permit existing grade differentials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting.

5. From Section 410.3.B.10 - to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those of the Landscape Manual.

6. From Section 253.4 - to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way.

7. From Section 410.3.B.7 - to permit existing paving sections at the site to satisfy the requirements of Section 409.8D.

IT IS FURTHER ORDERED that the Stay Order dated July \_\_\_\_\_, 1994 is hereby rescinded and of no further force and effect.

The Amended Order hereby granted is subject to the following restrictions:

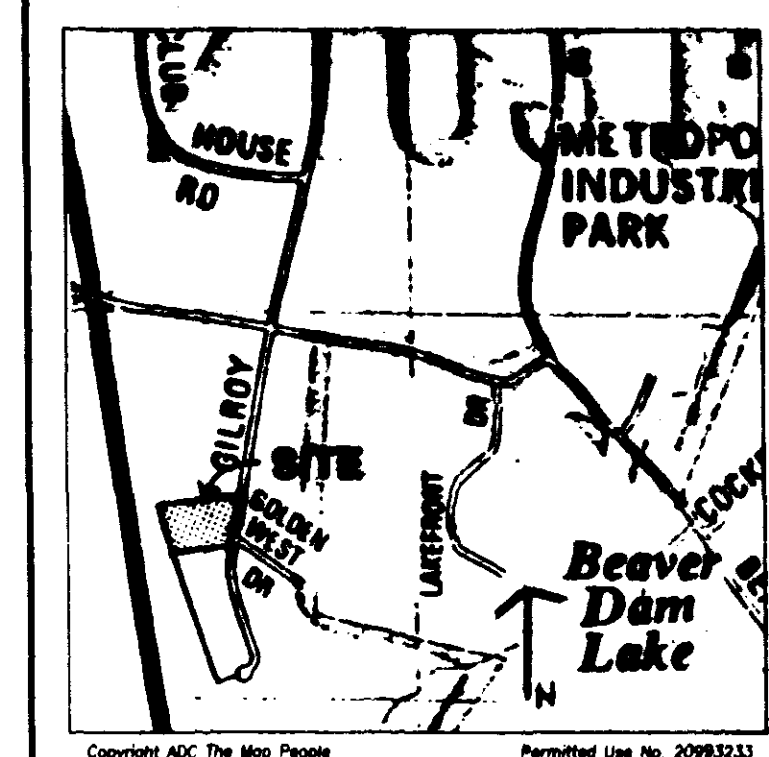
- 4 -

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Amended Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Amended Order has expired. If, for whatever reason, this Amended Order is reversed, the relief granted herein shall be rescinded.

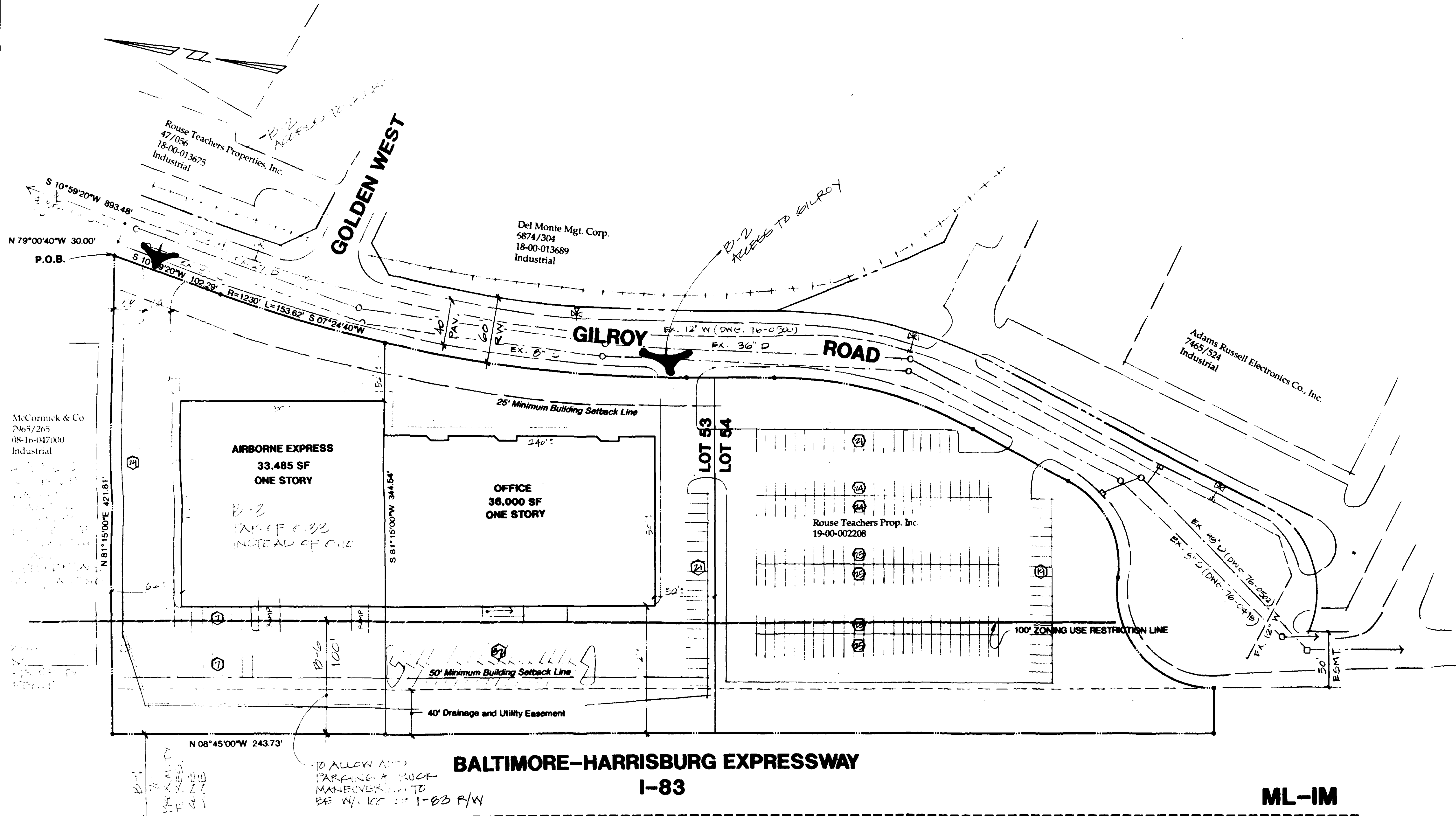
LAWRENCE E. SCHMIDT,  
Zoning Commissioner for  
Baltimore County

- 5 -





Vicinity Map  
Scale: 1" = 1000'



SEE NEW  
Zoning Relief Requested  
1. Special Exception to allow a service garage in an ML-IM zone.  
2. Special Hearing to allow a post office in an ML-IM zone.

Scale 1" = 50'

**DMW**  
Daft · McCune · Walker, Inc.  
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals  
200 East Pennsylvania Avenue  
Towson, Maryland 21286  
410.296.3333  
Fax 296.4705

**PLAN AND PLAT TO ACCOMPANY  
PETITIONS FOR SPECIAL EXCEPTION  
AND SPECIAL HEARING  
10720 GILROY ROAD  
HUNT VALLEY BUSINESS PARK  
BALTIMORE COUNTY, MD.**

Election Dist. 8      Councilmanic Dist. 8



DATE	BY	REVISIONS

Scale: 1" = 50'  
Date: 4/12/94

Project No: 94031

Completed: emh      Drawn:      Checked:

File: 94031 D.L.: <PLAT>

**GENERAL NOTES**

Owner: 53 Gilroy Ltd. Partnership  
(Lot 53) c/o Rouse Office Management, Inc.  
11311 McCormick Rd.  
Hunt Valley, MD 21031

Deed Ref: 8057/361

Tax Acct: 19-00-002207

Applicant: Airborne Express  
3101 Western Ave.  
P.O. Box 662  
Seattle, WA 98111

Site Acreage and Zoning (Lot 53)  
Net = 4.30 Ac. ML-IM  
Gross = 4.33 Ac. ML-IM (Incl. 30' Gilroy Rd. R/W)  
Petition area = 2.13 Ac. X

**E.A.R. (2.0)**

Allowed = 374,616 SF  
Proposed = 33,485 SF Prop. Industrial (Airborne Express)\*  
36,000 SF Ex. Office  
69,485 SF (0.38 FAR)

\*Uses include service garage, warehouse and office, pursuant to Baltimore County Zoning Regulations, and/or post office.

**Parking**  
Required = 63 employees @ 1 Sp./emp. = 63 Sp.  
36,000 SF Gen. Ofc. @ 3.3/1000 = 112 Sp.  
Total 182 Sp.  
Proposed = 289 Spaces (Lots 53 and 54)

All standard spaces will be 8.5 x 18', paved with a durable, dustless surface and striped. All Airborne trucks will be parked indoors overnight. Parking to support both existing and proposed uses occurs on Lots 53 and 54.

PETITIONER'S  
EXHIBIT 1A





7. More than 100 feet separates the two access points from Gilroy Road into the site.
8. Paved areas have been improved to accommodate truck traffic.
9. The site is properly drained in connection with previous approvals and permits for now existing improvements.
10. Zoning Case 94-407 SPHX dealt with landscaping issues and required no additional landscaping treatment.
11. Restroom facilities are provided.

**Requested Zoning Relief (Draft)**  
10720 Gilroy Road  
Airborne Express

**Zoning Case 94-407-SPHX**

**A. Special Exception**

Special Exception for a Class I trucking facility as authorized by Section 253.2.A.6 BCZR.

**B. Variances**

1. Section 410.2 - to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83.
2. Section 410.2.A.1 - to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such.
3. Section 410.3.A.2 - to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1.
4. Section 410.3.B.5 - to permit provision of no security fence enclosing that part of the site devoted to trucking operations in lieu of the required 6 foot fence enclosure and to permit existing grade differentials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting.
5. Section 410.3.B.10 - to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those of the Landscape Manual.
6. Section 253.4 - to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way.

In addition, we may need:

7. Section 410.3.B.7 - to permit existing paving sections at the site to satisfy the requirements of Section 409.8D.

## Zoning Use Theory

Proposed Airborne Express Facility is a use in combination with other permitted uses in an ML/IM zone. The specific uses are:

### As of Right

Section 253.1 B The following transportation storage, quasi public uses or utilities

(15) Storage or wholesale distribution of any product whose sale or final processing or production is permitted as of right as a principal use in ML Zones.

1. Airborne's operation is to store, sort and distribute envelopes & packages to companies & individuals locally, nationally & internationally.
2. Operation is wholesale in the sense that it fits the

adjective definition in Webster's Ninth New Collegiate Dictionary  
a. - performed at a large scale  
b. - Airborne is a middleman who sells its services chiefly (but not exclusively) to retailers, other merchants, industrial, institutional and commercial users, mainly (but not exclusively) for business use  
c. - large scale & its distribution services and operation enables Airborne to use air rather than land transportation as a significant part of its express delivery of envelopes and packages.

3. The nature & the content of the envelopes and packages which Airborne distributes is such that they fall within the scope of the permitted as of right office or other uses set forth in Section 253.1 A, B, C, or E of the ML Zone.

4. The envelopes and parcels stored, sorted and distributed at 10720 Gilroy will be collected or delivered by vehicles similar to Ford Econoline vans.

- a. These vans all have gross vehicle weights (Gross Vehicle Weight Ratings, GVWR) less than 10,000 pounds and by BCZP definition are not trucks. (See 101 Trucking Act)
- b. Envelope or parcel collection or delivery will be undertaken initially by about 25 vans and ultimately by as many as 50 vans - all under 10,000 pounds GVWR.
- c. Two straight trucks about 32 feet long will bring letters and parcels from the airport in the morning and return with letters and parcels to the airport in the evening for further distribution.
- d. These two trucks with a

maximum of four total trips a day to and from the airport serve the storage and sorting activities at 10720 Gilroy where the primary collection or delivery is performed by vans under 10,000 GVWR which are not by BCZP definition trucks.

e. The two trucks are simply an accessory to the principal or main use at 10720 Gilroy to be conducted by vehicles which are not trucks.

### By Special Exception

Section 253.2.B auxiliary service uses - serving that the requested use will serve primarily the industrial uses & related activities in the surrounding industrial area.

(3) Garages, service

Section 253.2.E Combination of uses permitted by Special Exception - service garage, and uses permitted as of right.

ZONING COMMISSIONER'S POLICY MANUAL

GENERAL

SECTION

101 POSTAL OR MAIL SERVICE OFFICE (PRIVATE): A retail operation for the collection or pick-up of letters or packages via a private carrier system. This definition does not include a distribution depot facility for the transport of letters or packages collected by such offices.

POST OFFICE: An office owned or leased by the U. S. Postal Service for the collection, distribution or pick-up of letters or packages via U. S. Mail. This definition includes the sale of stamps and other postal related items.

TO: PUTNEY PUBLISHING COMPANY  
April 26, 1994 Issue - Jeffersonian  
Please forward billing to:  
Airborne Express  
David C. Anderson, Corporate Secretary  
300 Western Avenue  
Seattle, Washington 98111  
410-812-2090

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-407-SPHX (Item 392)  
10720 Gilroy Road  
NW/8 Gilroy Road, 893.48' S of Beaver Dam Road  
8th Election District - 3rd Councilmanic  
Legal Owner(s): 53 Gilroy Limited Partnership  
Contract Purchaser(s): Airborne Express  
HEARING: THURSDAY, MAY 26, 1994 at 9:00 a.m. Rm. 118 Old Courthouse.

Special Hearing to approve a post office.  
Special Exception for a service garage.

ADMINISTRATIVE COMMENTS  
COUNTY OFFICE BUILDING FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

APRIL 21, 1994

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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HEARING: THURSDAY, MAY 26, 1994 at 9:00 a.m. Rm. 118 Old Courthouse.

Special Hearing to approve a post office.  
Special Exception for a service garage.

*Carl Jablon*

Arnold Jablon  
Director

cc: Airborne Express  
G. Scott Barhight, Esquire

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soy-based Ink  
on Recycled Paper

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

May 21, 1994

G. Scott Barhight, Esquire  
4th Floor  
210 West Pennsylvania Avenue  
Towson, Maryland 21204

RE: Case No. 94-407-SPHX, Item No. 392  
Petitioner: 53 Gilroy Limited Partnership  
Petition for Special Hearing and Special Exception

Dear Mr. Barhight:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on April 14, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

#### BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: May 2, 1994  
Zoning Administration and Development Management

FROM: Robert W. Bowling, Chief  
Developers Engineering Section

RE: Zoning Advisory Committee Meeting  
for May 2, 1994  
Item No. 392

The Developers Engineering Section has reviewed the subject zoning item. This site is subject to the development regulation for a commercial site in Baltimore County, Divisions 3, 4 and 5 of the Development Regulations and Department of Public Works Standard Plate R-32 for a single commercial entrance.

This proposal is subject to the Baltimore County Landscape Manual. A schematic landscape plan should be submitted and tentatively approved by this office prior to the hearing. The submitted parking lot layout must be revised to comply with Sec. IX C.2.b.1. requiring 7% landscape reservation area.

RWB:sw



O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

Ms. Charlotte Minton  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County  
Item No. 94-407-SPHX

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not offered by any State Highway Administration project.

Please contact Bob Small at 410-332-1250 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

*John Converse*

John Converse, Chief  
Engineering Access Permits  
Division

BS/

My telephone number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2253 (Statewide Toll Free)  
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

#### BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

DATE: May 5, 1994

SUBJECT: 10720 Gilroy Road

INFORMATION:

Item Number: 392 (94-407-SPHX)  
Petitioner: Gilroy Ltd. Partnership

Property Size: \_\_\_\_\_

Zoning: M.L.-I.M.

Requested Action: \_\_\_\_\_

Hearing Date: 1/1

SUMMARY OF RECOMMENDATIONS:

Based upon the information provided and analysis conducted, staff supports the applicant's request. The plat accompanying the subject request is in conformance with the Hunt Valley/Finsonium Redevelopment Study (adopted by Planning Board 4/15/93). In order to insure consistency with the plan, the following conditions must be met:

- The proposed use must not generate negative traffic impacts for other industrial uses.
- Landscape screening of parking and service areas from I-83 (50' minimum, including vegetation within I-83 R.O.W.) should be provided. The project should also be brought into conformance with the requirements of the Landscape Manual, in particular, the requirement for interior parking planting.
- Walks connecting the site and building entrance with adjoining properties and the future light rail stop must be provided.

Prepared by: *Jeffrey M. Long*

Division Chief: *Carol L. Kern*

PK/JL:lw

ZAC.392/PZONE/ZAC1

Pg. 1

RE: PETITION FOR SPECIAL HEARING \*  
PETITION FOR SPECIAL EXCEPTION  
NW/8 Gilroy Road, 893.48' \*  
S of Beaver Dam Road \*  
(10720 Gilroy Road) \*  
8th Election Dist. \*  
3rd Councilmanic Dist. \*  
53 GILROY LTD. PARTNERSHIP \*  
Petitioners \*

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 94-407-SPHX

#### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

*Peter Max Zimmerman*  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carol S. Demilio*  
CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, 210 W. Pennsylvania Avenue, 4th Floor, Towson, MD 21204, attorney for Petitioners.

*Peter Max Zimmerman*  
PETER MAX ZIMMERMAN

#### EXHIBIT A

#### Zoning Plan Notes

- Site Acreage and Zoning
  - Net Site Area - ML-IM 2.13 acres
  - Gross Site Area 2.31 acres (30 ft. of Gilroy, 7,677 SF)
- Floor Area Ratio (FAR)
  - Existing Building Area 35,485 SF
  - Gross Site Area 100,459 SF
  - Attained FAR 0.33
  - Maximum Permitted FAR 0.1
- Parking Class I Trucking Facility
  - Maximum employees 63 Employees
  - Required Parking, 5 Plus 1 per 2 Employees 37 Spaces
  - Parking Provided On-Site 43 Spaces

All Airborne vehicles will be parked indoors overnight. All standard parking spaces will be 8.5 x 18 feet and shall be striped. All parking, loading, or maneuvering spaces are, or shall be paved in accordance with the provisions of 409.8D.

All paved areas are curbed to protect passenger automobile and maneuvering aisles are more than 25 feet from a residential zone.

- Site lighting is, or shall be, arranged so as to not shine into residential areas, or upon public streets.
- The site is presently improved with building and paved areas as are shown. There will be no external site or building alterations other than creating ramps in lieu of existing loading docks or a new doorway to provide for vehicular ingress and egress within the existing building. Accordingly, topography, grading, or drainage is not shown.
- There are no wetlands within 200 feet, or any existing dwellings within 300 feet.



Suite 113, Courthouse  
400 Washington Avenue  
Towson, MD 21204

June 29, 1994

(410) 887-4386

G. Scott Barhight, Esquire  
210 W. Pennsylvania Avenue, 4th Floor  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
NW/S Gilroy Road, 891.48' S of Beaver Dam Road  
(10720 Gilroy Road)  
8th Election District - 3rd Councilmanic District  
54 Gilroy Limited Partnership - Petitioners  
Case No. 94-407-SPHX

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied and the Petition for Special Exception has been granted in accordance with the attached order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 887-4386.

Very truly yours,

*Lawrence E. Schmidt*  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

cc: Mr. George E. Gavrilin

1401 Boone-Walker, Inc., 200 E. Pennsylvania Ave., Towson, Md. 21286

Mr. James Smith, District Service Manager  
Knapton Express, 1015 W. Nursery Road, Linthicum, Md. 21090

cc: Mr. James Smith

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 8th Date of Posting: 7/7/94  
Posted for: Special Hearing & Special Exception  
Petitioner: 54 Gilroy Ltd. Partnership  
Location of property: 10720 Gilroy Rd., 8th Election District  
Location of Sign: 10720 Gilroy Rd., 8th Election District  
Remarks: None  
Posted by: APR 29 1994 Date of return: 7/12/94  
Number of Signs: 2

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., April 29, 1994

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on April 28, 1994.

THE JEFFERSONIAN,

*A. Henrichson*  
TOWSON, MD.

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on the date and time indicated below.

Case Number: 94-407-SPHX  
10720 Gilroy Road  
8th Election District  
3rd Councilmanic District  
54 Gilroy Limited Partnership  
Hearing: THURSDAY, MAY 26, 1994 at 2:00 p.m. in Rm. 118, Old Courthouse, Towson, Maryland 21204 and before:

Lawrence E. Schmidt, Zoning Commissioner

Special Hearing: to approve a post office use in a service garage

NOTES: (1) Hearing on the proposed advertisement for special advertisement. Please call 887-3353 for information.

4210 April 28

**Petition for Special Hearing**  
to the Zoning Commissioner of Baltimore County

for the property located at 10720 Gilroy Road  
which is presently zoned ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

a post office use in an ML-IM zone

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

By: David C. Anderson, Corporate Secretary/Counsel  
3101 Western Ave  
Seattle, Washington 98111  
City State Zipcode

By: Joseph H. Necker, Jr., Vice President  
3101 Western Ave  
Seattle, Washington 98111  
City State Zipcode

By: G. Scott Barhight  
4th Floor  
210 W. Pennsylvania Ave  
Towson, MD 21204  
City State Zipcode

ORDER RECEIVED FOR FILING  
Date 7/7/94  
By APR 29 1994

**Petition for Special Exception**  
to the Zoning Commissioner of Baltimore County

for the property located at 10720 Gilroy Road  
which is presently zoned ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a service garage

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

By: David C. Anderson, Corporate Secretary/Counsel  
3101 Western Ave  
Seattle, Washington 98111  
City State Zipcode

By: Joseph H. Necker, Jr., Vice President  
3101 Western Ave  
Seattle, Washington 98111  
City State Zipcode

By: G. Scott Barhight  
4th Floor  
210 W. Pennsylvania Ave  
Towson, MD 21204  
City State Zipcode

ORDER RECEIVED FOR FILING  
Date 7/7/94  
By APR 29 1994

Baltimore County Government  
Office of Zoning Administration  
and Development Management

111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

**ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES**

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

*Arnold Jablon*  
ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No. 392

Petitioner: 54 Gilroy Ltd. Partnership

Location: 10720 Gilroy Rd.

PLEASE FORWARD ADVERTISING BILL TO:

NAME: DAVID C. ANDERSON, CORPORATE SECRETARY / COUNSEL

ADDRESS: 3101 WESTERN AVE

SEATTLE WASH. 98111

\* PHONE NUMBER: 206-250-1515

SCOTT BARHIGHT, LOCAL ATTNY REPRESENTING PETITIONER

\*MUST BE SUPPLIED

Description  
To Accompany Petitions for Special Exception  
and Special Hearing  
213 Acre Parcel  
Northwest Side of Gilroy Road  
South of Beaver Dam Road  
Eighth Election District, Baltimore County, Maryland

**DMW**

Beginning for the same on the northwest side of Gilroy Road (60 feet wide) at the end of the two following courses and distances measured from the point formed by the intersection of the centerline of Gilroy Road with the centerline of Beaver Dam Road (1) South 10 degrees 59 minutes 20 seconds West 893.48 feet, and thence (2) North 79 degrees 00 minutes 40 seconds West 30.00 feet to the point of beginning, thence leaving said beginning point and binding on the northwest side of Gilroy Road the two following courses and distances, viz: (1) South 10 degrees 59 minutes 20 seconds West 102.29 feet, and thence (2) Southwesterly by a line curving to the left with a radius of 1230.00 feet for a distance of 153.62 feet (subtended by a chord bearing South 07 degrees 24 minutes 40 seconds West 153.52 feet), thence leaving said side of Gilroy Road (3) South 81 degrees 15 minutes 00 seconds West 344.54 feet to intersect the northeast side of the Baltimore-Harrisburg Expressway (Interstate 83), thence binding thereon (4) North 08 degrees 45 minutes 00 seconds West 243.74 feet, thence leaving said side of the Baltimore-Harrisburg Expressway (5) North 81 degrees 15 minutes 00 seconds East 421.82 feet to the point of beginning, containing 2.13 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 8, 1994  
Project No. 94031 (L94031)



Item Number: 392  
Planner: JLL  
Date Filed: 4-14-94

**PETITION PROCESSING FLAG**

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

- Need an attorney ✓
- The following information is missing:
- Actual address of property ✓
  - Zoning ✓
  - Acreage ✓
  - Plats (need 12, only 1 submitted) ✓
  - 200 scale zoning map with property outlined ✓
  - Election district ✓
  - Councilmanic district ✓
  - BCZR section information and/or wording ✓
  - Hardship/practical difficulty information ✓
  - Owner's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number ✓
  - Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number ✓
  - Signature (need minimum 1 original signature) and/or printed name and/or title of person signing for legal owner/contract purchaser ✓
  - Power of attorney or authorization for person signing for legal owner and/or contract purchaser ✓
  - Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number ✓
  - Notary Public's section is incomplete and/or incorrect and/or commission has expired ✓

PET-FLAG (TXTSOPH)  
11/17/93



IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION - NW/8 Gilroy Road, 893.48' S of Beaver Dam Road (10720 Gilroy Road) 8th Election District 3rd Councilmanic District

\* BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

\* Case No. 94-407-SPHX

53 Gilroy Limited Partnership Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as Petitions for Special Hearing and Special Exception for that property known as 10720 Gilroy Road, located in the Hunt Valley Industrial Park in northern Baltimore County. The Petitions were filed by the owners of the property, 53 Gilroy Limited Partnership, by Rouse Teachers Property Inc., General Partner, through Joseph H. Necker, Jr., Vice President, and the Contract Lessee, Airborne Express by David C. Anderson, Corporate Secretary/Counsel. The Petitioners seek a special hearing to approve a post office use in an M.L.-I.M. zone and a special exception for a service garage for the vehicles used in the post office operation. The subject property and relief sought are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 2.

Appearing on behalf of the Petitions were Daniel Zeltt, District Service Manager for Airborne Express, George E. Gavrelis, Professional Engineer with Daft-McCune-Walker, Inc., Bob Arnold, and G. Scott Barhight, Esquire, attorney for the Petitioners. Also appearing in support of the Petitions was Peter Swanson with the Baltimore County Department of Economic Development. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 4.30 acres, more or less, zoned M.L.-I.M. and is improved with

a one-story building of approximately 70,000 sq.ft. and a large parking area which surrounds the building. The property is located within the Hunt Valley Industrial Park adjacent to Gilroy Road and abuts the right-of-way for the Baltimore-Harrisburg Expressway (I-83). The proposed special exception/special hearing uses are intended for a portion of the site. Specifically, the Petitioners seek to lease 33,485 sq.ft. of the existing building to Airborne Express for purposes of establishing a district office. The area designated for this special exception/special hearing use is approximately 2.13 acres in size. Mr. Daniel Zeltt testified and presented the site plan. He described the business of Airborne Express, which is well-known to this Zoning Commissioner and the public. The company is in the business of delivering packages and letters on a high speed, high volume basis. Mr. Zeltt noted that 75% of the company's business involves letters and 75% of all deliveries made involve the company's fleet of aircraft.

As to the subject site, no external improvements to the building are envisioned except for some modifications to increase vehicular access. Letters and packages will be delivered to the site by two 26-foot long trucks which transport material to be delivered from the Baltimore Washington International Airport. A second delivery by way of a 45-foot trailer will also make deliveries to the site each afternoon from the Airborne Express hub in Allentown, Pennsylvania. Other than these deliveries by large trucks, the remaining traffic and deliveries will be generated and accomplished by Econoline vans. It is envisioned that approximately 25 vans will be utilized on the site when the business is begun with the potential expansion to a total of 50 vans. It is of significant note that the vans have a gross vehicle weight of 9400 lbs.

- 2 -

Mr. Zeltt also comprehensively discussed the nature of the business. He described the distribution and sorting system employed on site for the distribution of the material to be delivered. He also described the hours of operation as being from approximately 6:30 AM to 10:00 PM. Mr. Zeltt noted that the Airborne Express clientele was largely businesses and commercial clients.

Mr. Gavrelis also testified extensively about the nature of this proposed use as it relates to the B.C.Z.R. As noted above, the Petitioner has filed for relief under alternative theories. First, approval under the Petition for Special Hearing is requested for a post office use in that the nature of the business of Airborne Express is somewhat similar to the United States Postal Service. Second, because the vehicles used in the operation will be maintained and stored on the premises, special exception relief is requested for a service garage. Mr. Gavrelis and Mr. Barhight presented testimony and argument relating to the propriety of such uses on this site.

It should first be observed that the proposed use will not cause any detriment to the surrounding locale and is an entirely appropriate and compatible use for this vicinity. As previously noted, the site is located immediately adjacent to I-83 within the Hunt Valley Industrial Park, which is a large tract of industrial uses. The McCormick Company, a major client of Airborne Express, is located nearby. I find no evidence that the proposed use will be detrimental in any fashion to this vicinity. In fact, it will perform a valuable service to the businesses located nearby.

As to the identification of this use, however, I do not find same to be a post office. A post office is not a defined use in Section 101 of the B.C.Z.R. In fact, that term only appears in the B.C.Z.R. in Section

- 3 -

101 where the term "office" is defined. Therein, it is provided that an office does not include a post office use. However, in Webster's Third New International Dictionary, the term post office is defined as a building in which regulating and handling the transmission of mail occurs. In applying this definition to the proposed use, I do not find same to be a post office.

In view of this Zoning Commissioner's experience in evaluating the United Postal Service (UPS) facility in Loveton, consideration should be given as to whether the proposed use might be considered a trucking facility. Although the business of UPS and Airborne Express is not identical, the concepts are somewhat similar. Both involve high speed delivery of written material and packaged items. However, an examination of the definition for a trucking facility in Section 101 of the B.C.Z.R. shows that same is not applicable to the proposed Airborne Express operation. Specifically, the definition provides "as used in this definition, the terms trucks, truck-trailers, and truck-tractors do not include any vehicle whose maximum gross weight is 10,000 lbs. or less as rated by the State Motor Vehicle Administration." Since the predominant vehicles to be employed by Airborne Express are under 10,000 lbs., unlike UPS, the trucking facility definition does not apply.

The service garage definition does appear to fit; however, that use is defined as "a garage where motor vehicles are stored, equipped for operation, repaired, or kept for remuneration, hire or sale." Clearly, the Airborne Express fleet of vehicles are stored, equipped, and repaired on the site. Moreover, the use of the word "or" in the definition shows that the terms thereof are disjunctive. Not all of the activities identified in the service garage definition must exist on the site for the use to be

- 4 -

considered a service garage. Therefore, I believe that the subject site is considered a service garage.

I would also adopt the zoning use theory offered by Mr. Gavrelis. He referenced Section 253.1.B of the B.C.Z.R. which allows as a matter of right certain transportation, storage, quasi-public uses, or utilities in an M.L. zone. Item 15 therein includes the storage or wholesale distribution of any products whose sale or final processing or production is permitted as of right as a principal use in an M.L. zone. Airborne's operation seems to comply with this definition. The nature and content of the material which Airborne distributes would fall under a number of the uses itemized within that Section of the B.C.Z.R. Clearly, Airborne is a middleman who conveys products, the manufacture of which is otherwise permitted in this zone. Moreover, Section 253.2.B permits certain auxiliary service uses by special exception, when those uses will serve industrial and related activities in a surrounding industrial area. Airborne's proposed use may well fall within this description, in that a number of Airborne's customers are located in the industrial park and vicinity. Lastly, Section 253.2.E of the B.C.Z.R. allows combinations of uses permitted either by special exception or as a matter of right.

In any event, no matter what the use is labeled, it is clear that same is entirely appropriate in this locale and will not create any adverse effect upon the surrounding community. Moreover, the nature of the use is consistent with the M.L.-I.M. zoning classification and other uses which are permitted therein by special exception or by right. Therefore, I will approve the use as requested.

In response to the Zoning Plans Advisory Committee comments submitted by the Office of Planning and Zoning, I do not find that the pro-

posed use would generate negative traffic impacts in this area which is located adjacent to an Interstate. It appears that the capability of the surrounding roadway is appropriate. I further decline to incorporate the landscaping requirement. Photographs submitted into evidence as Petitioner's Exhibits 4 show that the subject site is developed with mature plantings and trees as the building has been there for some time. The site is well-screened from I-83 and the surrounding uses are all industrial in nature. There are no nearby residences which could be affected by the use proposed. Therefore, I do not believe additional landscaping above and beyond what already exists on the property should be required. For the same reasons, sidewalks will not be required. There will not be clients visiting the site on any regular basis and the surrounding properties are entirely located within an industrial park. There does not appear to be a volume of pedestrian traffic to warrant such a requirement.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes

- 6 -

of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing and special exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of June, 1994 that the Petition for Special Hearing to approve a post office use in an M.L.-I.M. zone, in accordance with Petitioner's Exhibit 2, be and is hereby DENIED, in that the proposed use is not a post office; and,

IT IS FURTHER ORDERED that the Petition for Special Exception for a service garage for the vehicles used in the proposed operation by Airborne Express, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the proposed Airborne Express operation should be permitted as a matter of right, pursuant to Section 253.1.B of the B.C.Z.R., or in the alternative, by special exception, pursuant to

- 7 -

Sections 253.2.B and 253.2.E of the B.C.Z.R., subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

LES:bjs

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

- 8 -



IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

STAY ORDER

Upon the Motion for Reconsideration and Stay filed by the Petitioner, Airborne Express, the Order of the Zoning Commissioner dated June 24, 1994 in this matter is hereby stayed until such time as the Motion for Reconsideration and Stay has been ruled upon by the Zoning Commissioner.

THEREFORE, it is ORDERED by the Zoning Commissioner of Baltimore County this 21st day of July, 1994 that the Order of the Zoning Commissioner in this case dated June 24, 1994 is hereby stayed until such time as the Motion for Reconsideration is ruled upon by the Zoning Commissioner of Baltimore County.

LAWRENCE E. SCHMIDT,  
Zoning Commissioner for  
Baltimore County

IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

AMENDED ORDER

This matter came before the Zoning Commissioner as Petitions for Special Hearing and Special Exception for the subject property, known as 10720 Gilroy Road, located in the Hunt Valley Industrial Park in northern Baltimore County. The Petitions were filed by the owners of the property, 53 Gilroy Limited Partnership, by Rouse Touchers Property Inc., General Partner, through Joseph H. Necker, Jr., Vice President, and the C tract Lessee, Airborne Express by David C. Anderson, Corporate Secretary/Counsel. The Petitioners originally sought a special hearing to approve a post office use in an M.L.-I.M. zone and a special exception for a service garage for the vehicles used in the post office operation.

This matter was scheduled and a public hearing held on May 26, 1994. At that hearing, numerous representatives of the property owner and lessee appeared and testified and were represented by G. Scott Barhight, Esquire. Following that public hearing, I issued a Findings of Fact and Conclusions of Law on June 24, 1994. Therein, I denied the Petition for Special Hearing for a post office in an M.L.-I.M. zone, determining that the proposed use did not constitute a post office. Rather, I granted the Petition for Special Exception for a service garage for vehicles used in the proposed operation by Airborne Express. Moreover, I found and ordered that the proposed Airborne Express operation was permitted as of right,

ORDER RECEIVED FOR FILING  
Date 8/1/94  
By [Signature]

pursuant to Section 253.1.B of the B.C.Z.R., or in the alternative, by special exception, pursuant to Sections 253.2B and 253.2E of the B.C.Z.R.

Following the issuance of my opinion and Order, notification was received that the Office of People's Counsel had reviewed that decision. It is to be noted that they did not participate at the subject hearing. Moreover, the Office of People's Counsel communicated to the Petitioner a concern over the terms and provisions of the Findings of Fact and Order. It was represented to this Zoning Commissioner that People's Counsel did not so much object to the proposed use at this locale, but feared that a certain precedent would be established and prejudice to other cases might result if the Order was allowed to stay.

Under the circumstances, the Petitioners filed a Motion for Reconsideration of my decision and a Stay of the terms and conditions of my Order by Motion dated July 20, 1994. In addition, the Petitioners requested an amendment to the previous Petitions filed to include a Petition for Special Exception for a trucking facility, pursuant to Section 253.2.A.6 of the B.C.Z.R., and a Petition for Variance seeking relief from Section 410 of the B.C.Z.R. as follows: 1) From Section 410.2 to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83; 2) from Section 410.2.A.1 to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such; 3) from Section 410.3.A.2 to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1; 4) from Section 410.3.B.5 to permit the provision of no security fence enclosing part of the site devoted to trucking operations in lieu of the required 6-foot

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Date 8/1/94  
By [Signature]

fence enclosure and to permit existing grade differentials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting; 5) from Section 410.3.B.10 to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those required in the Landscape Manual; 6) from Section 253.4 to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way; and 7) from Section 410.3.B.7 to permit existing paving sections at the site to satisfy the requirements of Section 409.8.D of the B.C.Z.R. An Order of Stay was issued by this Office on July 21, 1994, within the 30-day period allowed by law. Thereafter, a public hearing was reconvened to consider arguments of counsel and additional testimony by Mr. George Gavrelis. The Petitioners were again represented by G. Scott Barhight, Esquire, and the Office of People's Counsel was present in the person of Peter Max Zimmerman. A revised site plan was submitted and introduced as Petitioner's Exhibit 1A. Moreover, as noted above, Mr. Gavrelis testified and explained the changes on the plan and amended Petitions. It is to be noted that none of the changes involve any physical alteration of the building. Rather, People's Counsel and the Petitioners have requested this Commissioner rescind the Order so as to treat the proposed use as a trucking facility.

Trucking facilities are defined by Section 101 of the B.C.Z.R. as "a structure or land used, or intended to be used, primarily, a) to accommodate the transfer of goods or chattels from trucks or truck trailers to other trucks or truck trailers or to vehicles of other types, in order to facilitate the transportation of such goods or chattels; or b) for truck

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Date 8/1/94  
By [Signature]

or truck trailer parking storage." On its face, it appears that Airborne's use, as reflected in the testimony and evidence offered at the hearing, would fall within this definition. However, as this Zoning Commissioner noted on the record, the definition of a trucking facility in Section 101 goes on to exclude as a "truck" any vehicle whose maximum gross weight is 10,000 lbs. or less. As the testimony presented established, the vast majority of the vehicles employed by Airborne Express are under the 10,000 lbs. limit. Thus, whether this use "primarily" involves such vehicles is questionable. Nonetheless, since the parties are in agreement, I will accept their joint proffer that the proposed use is indeed a trucking facility.

As noted in my original opinion, the proposed use will clearly not be detrimental to the health, safety or general welfare of the surrounding locale. No matter what this use is labeled, the daily routine and activity on site is entirely proper and compatible with surrounding uses. In fact, one cannot envision any site which would be more appropriate for the Airborne Express operation. Thus, the special exception relief should be granted to permit the proposed trucking facility on this site. Moreover, because the trucking facility use has been adopted, certain variances are necessary from Section 410 of the B.C.Z.R. These variances are listed and fully identified in the Motion for Reconsideration and Stay which will be specifically referenced and adopted herein. Moreover, they were discussed in detail and identified on the amended site plan marked as Petitioner's Exhibit 1A.

Suffice it to say, I am persuaded that the variances should be granted, based upon the uncontradicted testimony offered by Mr. Gavrelis. It is clear that the relief granted will be within the spirit and intent of

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Date 8/1/94  
By [Signature]

the B.C.Z.R. Moreover, the granting of the variances will not be detrimental to the surrounding locale and I find that the Petitioner would suffer practical difficulty if the relief were not granted. It is to be particularly noted that the Petitioner intends on utilizing an existing building and will not physically alter the exterior of same, but for certain improvements to provide better access. However, the building envelope and size will remain the same. Thus, it is clear that a granting of the variances will be to legitimize the existing structure and assure compliance of same for use as a trucking facility.

NOW, THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 10th day of August, 1994, that the Order issued on June 29, 1994 be and the same is hereby AMENDED as follows:

That the Petition for Special Exception for a Class I Trucking Facility, pursuant to Section 253.2.A.6 of the B.C.Z.R. and in accordance with Petitioner's Exhibit 1A, be and is hereby GRANTED, and;

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 410 of the B.C.Z.R. as follows: 1) From Section 410.2 to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83; 2) from Section 410.2.A.1 to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such; 3) from Section 410.3.A.2 to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1; 4) from Section 410.3.B.5 to permit the provision of no security fence enclosing that part of the site devoted to trucking operations in lieu of the required 6-foot fence enclosure and to permit existing grade differen-

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Date 8/1/94  
By [Signature]

tials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting; 5) from Section 410.3.B.10 to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those required in the Landscape Manual; 6) from Section 253.4 to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way; and 7) from Section 410.3.B.7 to permit existing paving sections at the site to satisfy the requirements of Section 409.8.D of the B.C.Z.R., in accordance with Petitioner's Exhibit 1A, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Order of Stay dated July 21, 1994 be and is hereby RESCINDED and of no further force and effect.

LES:bjs

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

ORDER RECEIVED FOR FILING  
Date 8/1/94  
By [Signature]

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

August 10, 1994

(410) 887-4386

G. Scott Barhight, Esquire  
210 W. Pennsylvania Avenue, 4th Floor  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
NW/S Gilroy Road, 893.48' S of Beaver Dam Road  
(10720 Gilroy Road)  
8th Election District - 3rd Councilmanic District  
53 Gilroy Limited Partnership - Petitioners  
Case No. 94-407-SPHX

Dear Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Motion for Reconsideration has been granted, and the Petitions for Special Exception and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: Mr. George E. Gavrelis  
Daft-McCune-Walker, Inc., 200 E. Pennsylvania Ave., Towson, Md. 21286

Mr. Daniel Zellit, District Service Manager  
Airborne Express, 1015 W. Nursery Road, Linthicum, Md. 21090

People's Counsel

File ✓





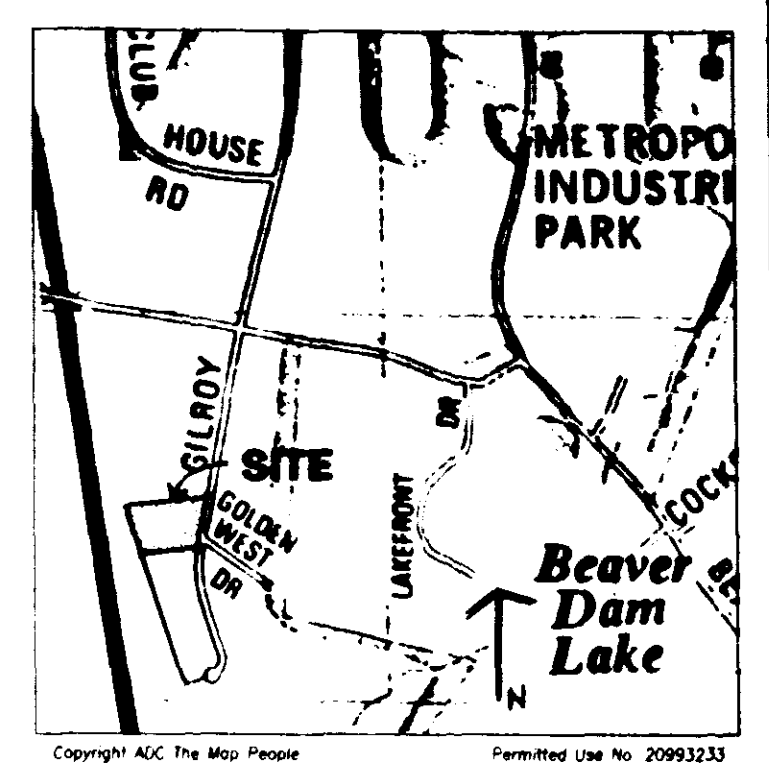
BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.  
MARTINSBURG, W.V. 25401

*Plot No 3*

SCALE	LOCATION	SHEET
1" = 200' ±	COCKEYSVILLE	N.W. 17-C
DATE OF PHOTOGRAPHY JANUARY 1986		MICROFILMS





Vicinity Map  
Scale: 1" = 1000'

94-407-SPHX

**Zoning Relief Requested**

1. Special Exception to allow a service garage in an ML-IM zone.
2. Special Hearing to allow a post office in an ML-IM zone.

Scale 1" = 50'

**DMW**  
Daft · McCune · Walker, Inc.  
A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals  
200 East Pennsylvania Avenue  
Towson, Maryland 21206  
410-286-3333  
Fax 286-4705

**PLAN AND PLAT TO ACCOMPANY  
PETITIONS FOR SPECIAL EXCEPTION  
AND SPECIAL HEARING  
10720 GILROY ROAD  
HUNT VALLEY BUSINESS PARK  
BALTIMORE COUNTY, MD.**

Election Dist. 8 Councilmanic Dist. 3

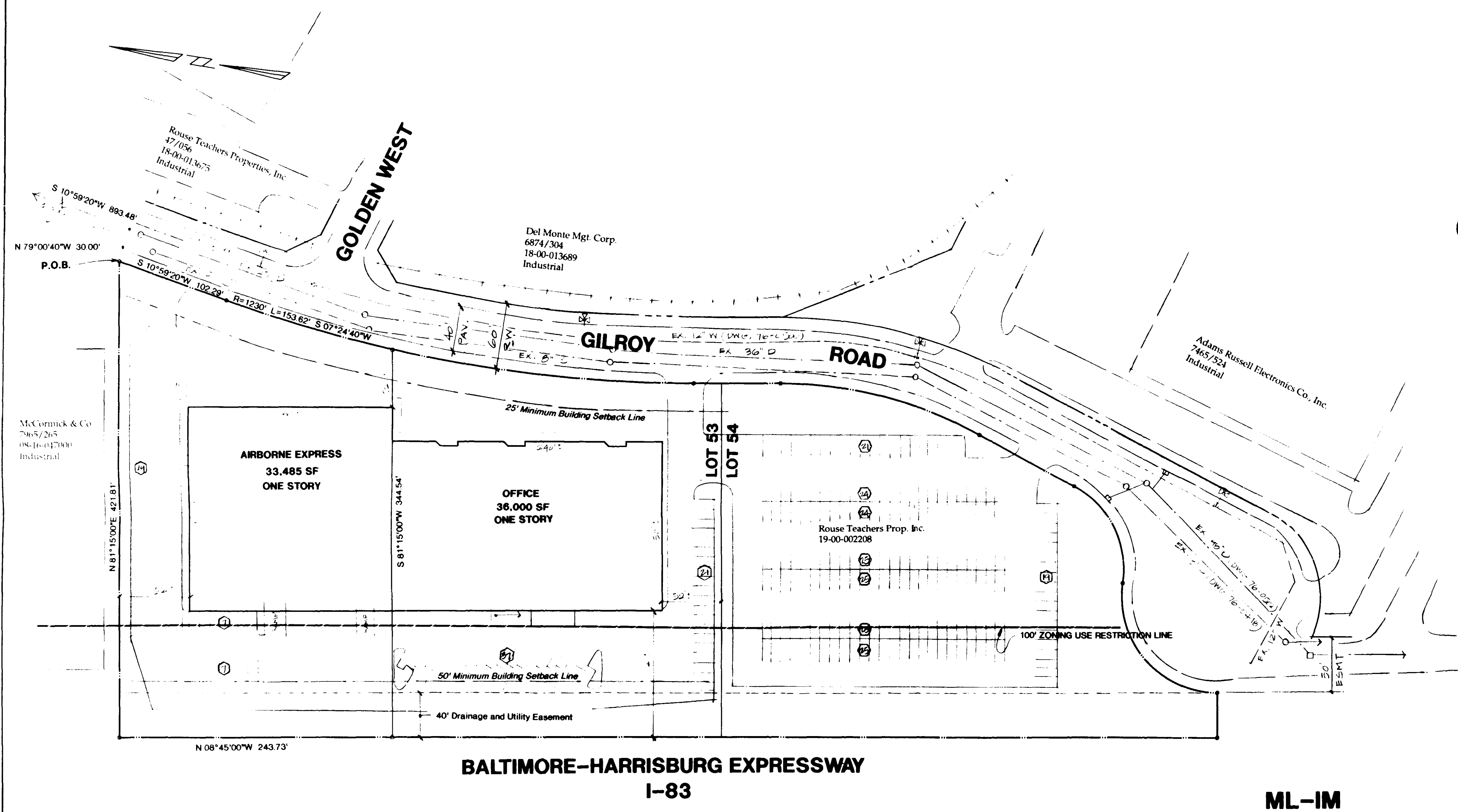


PRINTED  
APR 13 1994  
DAFT-MCCUNE-WALKER, INC.

DATE	BY	REVISIONS

Scale: 1" = 50'  
Project No: 94031  
Date: 4/12/94  
Computed: cmh Drawn: Checked:

File: 94021 D.L.: <PLAT>



**GENERAL NOTES**

Owner: 53 Gilroy Ltd. Ptnrshp  
(Lot 53) c/o Rouse Office Management, Inc.  
11311 McCormick Rd.  
Hunt Valley, MD 21031

Deed Ref: 8057/361

Tax Acct: 19-00-002207

Applicant: Airborne Express  
3101 Western Ave  
P.O. Box 662  
Seattle, WA 98111

**Site Acreage and Zoning (Lot 53)**

Net = 4.30 Ac. ML-IM  
Gross = 4.33 Ac. ML-IM (Incl. 30' Gilroy Rd. R/W)  
Petition area = 2.13 Ac. +/-

**E.A.R. (2.0)**

Allowed = 374,616 SF  
Proposed = 33,485 SF Prop. Industrial (Airborne Express)\*  
36,000 SF Ex. Office  
69,485 SF (0.38 FAR)

\*Uses include service garage, warehouse and office, pursuant to  
Baltimore County Zoning Regulations, and/or post office.

**Parking**

Required = 63 employees @ 1 Sp./emp. = 63 Sp.  
36,000 SF Gen. Ofc. @ 3.3/1000 = 112 Sp.  
Total 182 Sp.

Proposed = 289 Spaces (Lots 53 and 54)

All standard spaces will be 8.5 x 18', paved with a durable, dustless surface and  
striped. All Airborne trucks will be parked indoors overnight. Parking to  
support both existing and proposed uses occurs on Lots 53 and 54.

ML-IM  
RC 4

392

PETITIONER'S  
EXHIBIT No 2



IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

MOTION FOR RECONSIDERATION AND STAY

Airborne Express, Petitioner, by G. Scott Barhight and Whiteford, Taylor & Preston, its attorneys, hereby moves for reconsideration and stay of the Zoning Commissioner's Order in the above-captioned matter dated June 24, 1994 and states as follows:

1. By Findings of Fact and Conclusions of Law dated June 24, 1994, the Zoning Commissioner for Baltimore County, upon the Petitions of Airborne Express held as follows:

a. The Petition for Special Hearing to approve a post office use in an M.L.-I.M. zone was denied,

b. The Petition for Special Exception for a service garage for the vehicles used in the proposed operation by Airborne Express was granted, and,

c. It was further ordered that the proposed Airborne Express operations should be permitted as a matter of right pursuant to Section 253.1.B of the Baltimore County Zoning Regulations, or in the alternative, by Special Exception pursuant to Sections 253.2.B and 253.2.E of the Baltimore County Zoning Regulations.

2. Since the date of the Order, the Office of People's Counsel, whose appearance was entered before the Zoning Commissioner previously, indicated their concern regarding the status of the proposed use as a trucking facility.

3. In response to the concerns expressed by People's Counsel and in an effort to facilitate the expeditious disposition of this case, Airborne Express files this Motion for Reconsideration.

4. In order to avoid the prejudicial effects of the appeal deadline, Airborne Express respectfully requests that the Zoning Commissioner stay its Order dated June 24, 1994 until such time that the Motion for Reconsideration has been decided.

5. Airborne Express hereby respectfully requests that the Petitions previously filed be amended to include a Petition for Special Exception for a trucking facility pursuant to Section 410, BCZR and to add a Petition for Zoning Variance to provide for the zoning variances as identified on the attached revised site plan labeled Exhibit A.

6. Based upon the evidence previously submitted at the public hearing held on this matter, Airborne Express respectfully asserts that the applicable provisions of the Baltimore County Zoning Regulations regarding special exceptions for trucking facilities and variances have already been proven through the testimony of Messrs. Zeltt and Gavrelis. There were no protestants present at the public hearing and the only party to enter their appearance was People's Counsel.

- 2 -

7. Airborne Express respectfully requests that the Petition for Special Exception for trucking facility and Petition for Zoning Variances be granted.

THEREFORE, Airborne Express, Petitioner, respectfully requests that the relief requested in this Motion be granted.

Respectfully submitted,

G. Scott Barhight  
Whiteford, Taylor & Preston  
400 Court Towers  
210 W. Pennsylvania Ave  
Towson, Maryland 21204  
(410) 832-2050

Certificate of Mailing

I hereby certify that on this 20<sup>TH</sup> day of July, 1994, I mailed, postage prepaid, a copy of the foregoing Motion for Reconsideration and Stay to Peter Zimmerman, Esquire, People's Counsel, Room 47, Old Court House, 400 Washington Avenue, Towson, Maryland 21204.

G. Scott Barhight

- 3 -

IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND SPECIAL EXCEPTION - NW/S \* ZONING COMMISSIONER  
Gilroy Road, 893.48' S of \*  
Beaver Dam Road \* OF BALTIMORE COUNTY  
(10720 Gilroy Road) \*  
8th Election District \* Case No. 94-407-SPHX  
3rd Councilmanic District \*  
53 Gilroy Limited Partnership \*  
Petitioners \*

AMENDED ORDER

Upon the Motion for Reconsideration and Stay filed by the Petitioner, Airborne Express, there having been no protestants at the hearing, and, recognizing the People's Counsel's observation that the proposed facility meets the definition of a trucking facility, this Commissioner has further reviewed the petition, as amended.

The proposed Airborne Express use is to distribute and sort parcels and other material. This involves the transfer of goods from trucks or truck trailers to other vehicles. It also involves truck parking.

It appears that the proposed trucking facility use meets the criteria of BCZR Sec. 502.1, because it is an appropriate location and will not adversely affect the public safety, health and welfare. It further appears that there are practical difficulties unique to this location which justify the requested variances under BCZR 307.1. In particular, the adjacent R.C.4 zone is in the middle of an interstate highway, I-83, and there is no impact on any residential neighborhood.

A series of variances have been requested in conjunction with the Special Exception for a Class I trucking facility as authorized by Section 253.2.A.6, BCZR, in accordance with Petitioner's Exhibit 2. Area variances may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty to an area variance, the Petitioner must meet the following:

1. Whether strict compliance with requirements would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2. Whether the grant would do substantial injustice to applicant as well as other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief; and

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and the public safety and welfare secured. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974). In the instant case, no significant alterations are proposed for the building or the site layout. The variances are required merely because of the Trucking Facility Requirements of the Baltimore County Zoning Regulations. The impacts of the proposed use by Airborne Express are no greater as a "Trucking Facility" than as the use is described in my previous order dated June 24, 1994. It would be

- 2 -

a practical difficulty to require this Petitioner to alter the existing improvements when all of the activities, including truck and van parking, will occur substantially within the building.

It is clear from the testimony that if the variances are granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public health, safety, and general welfare. Pursuant to the advertisement, posting of the property, and upon the Motion for Reconsideration, and for the reasons given above, the special exception and variances requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this \_\_\_\_\_ day of July, 1994, superseding the prior Order dated July 24, 1994, that the Petition for Special Exception for a Class I trucking facility as authorized by Section 253.2.A.6, BCZR, in accordance with Petitioner's Exhibit 2 be and is hereby granted; and

IT IS FURTHER ORDERED that the Petition for Variance in accordance with Petitioner's Exhibit A be and is hereby granted as follows:

1. From Section 410.2 - to permit a Class I trucking facility to be located as close as 70 feet from the residential zone boundary located within I-83.

2. From Section 410.2.A.1 - to permit a Class I trucking facility to have access to Gilroy Road, a road which functions as a public industrial service road, but may not be designated officially as such.

- 3 -

3. From Section 410.3.A.2 - to permit a Class I trucking facility to be established within an existing building to have a floor area ratio of 0.33 in lieu of the required maximum of 0.1.

4. From Section 410.3.B.5 - to permit provision of no security fence enclosing that part of the site devoted to trucking operations in lieu of the required 6 foot fence enclosure and to permit existing grade differentials and landscaping to screen the entire site from a residential zone in lieu of the required opaque fencing, walls, or living screen planting.

5. From Section 410.3.B.10 - to permit extensive existing landscaping to fulfill landscaping and screening requirements in lieu of those of the Landscape Manual.

6. From Section 253.4 - to permit existing accessory automobile parking and truck maneuvering areas for a Class I trucking facility proposed to be primarily established within an existing building to occur within 100 feet of the I-83 right-of-way.

7. From Section 410.3.B.7 - to permit existing paving sections at the site to satisfy the requirements of Section 409.8D.

IT IS FURTHER ORDERED that the Stay Order dated July \_\_\_\_\_, 1994 is hereby rescinded and of no further force and effect.

The Amended Order hereby granted is subject to the following restrictions:

- 4 -

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Amended Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Amended Order has expired. If, for whatever reason, this Amended Order is reversed, the relief granted herein shall be rescinded.

LAWRENCE E. SCHMIDT,  
Zoning Commissioner for  
Baltimore County

- 5 -